

**CHARTER COMMISSION
CITY AND COUNTY OF HONOLULU
711 Kapiolani Blvd. Suite 1485
Honolulu, Hawaii 96813**



**TUESDAY, JANUARY 10, 2006
COUNCIL CHAMBERS
THIRD FLOOR, HONOLULU HALE
2:00 P.M.**

MINUTES

Charter Commission Members Present:

Donn M. Takaki
Jeffrey T. Mikulina
Andy Chang
Jerry Coffee
E. Gordon Grau
Jared Kawashima
Darolyn H. Lendio
Jim Myers
Jan N. Sullivan
Malcolm J. Tom – Late 3:00 p.m.
Stephen Meder

Charter Commission Members Absent

Amy Hirano - Excused
James C. Pacopac

Others Present:

Chuck Narikiyo, Executive Administrator, Charter Commission
Diane Kawauchi, Deputy Corporation Counsel, Department of the Corporation Counsel
Lori K. K. Sunakoda, Deputy Corporation Counsel, Department of Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel, Department of Corporation Counsel
Loretta Ho, Secretary, Charter Commission
Nicole Love, Researcher, Charter Commission

I. Call to Order

Chair Donn Takaki called the meeting to order at 2:05 p.m. Chair Takaki noted that testimony will be limited to three minutes due to the large number of testifiers and that testimony must be related to the agenda.

II. Agenda Item 2a. – For Discussion and Action: Proposed changes to Rules.

- a. Proposed Rule Change regarding voting. This rule change clarifies that voting on the initial review of proposals requires approval of a majority of those present, and that further voting on proposals requires approval of seven or more commissioners:**

RULE 2. VOTING: RULE OF THE MAJORITY

- a. Procedural matters, requests for information, and internal Commission matters shall require the approval of a majority vote of those present at any meeting. Voting on the initial review of proposed charter amendments for further consideration shall be considered a procedural matter under this Rule.*
- b. Matters of substance, including all votes other than the initial vote on any proposed charter amendments, shall require the approval of seven members of the Commission. Proposed charter changes require a minimum of two reviews, adoption and/or approvals of the Commission as set forth in Rule 4 before inclusion on the general election ballot.*
- c. Each member shall have one vote. Not votes by proxy shall be permitted.*
- d. Any member can vote on pending motion and participate in discussion on every debatable motion before it is finally acted upon. The holding of an office on the Commission shall not disqualify the member from making motions, participating in debate, or voting.*
- e. Voting shall be by voice or by show of hands. A roll call vote shall be required when requested by at least three members.*

Discussion:

Commissioner Jared Kawashima reported that the Rules Committee is making two proposed rules changes for discussion and vote. The Charter Commission

staff was asked to draft language, which was reviewed by Corporation Counsel, for the Commission's review and discussion.

The first proposed rule change was regarding Rule 2a and 2b, voting on proposals. Commissioner Kawashima stated that there's a potential discrepancy in the rules and that the proposed change was to avoid any potential problems. Commissioner Kawashima went over the proposed changes for Rules 2a and 2b and opened it to the Commissioners present for discussion. He noted that at the Commission's last meeting, there were 12 or 13 members present, and seven votes were required for action. Therefore there was no problem with the votes taken last meeting, but there could be a possible ambiguity if less than 12 members were present at any meetings.

Commissioner Coffee asked for clarification on votes from the December 13, 2005 meeting on proposals that ended in a tied vote. Chair Takaki clarified that the rule change makes it clearer that these initial votes need to be a majority in order to succeed.

Action:

Commissioner Darolyn Lendio made a motion to approve the proposed amended language for Rule 2. Commissioner Andy Chang seconded that motion. There was no further discussion. All Commissioners present voted in favor for amending Rule 2a and 2b as proposed above.

Agenda Item 2b – For Discussion and Action: Proposed changes to Rules.

Proposed Rule Change re Public Testimony. This proposed rule change gives the Chair discretion to limit public testimony at the Commission's planned public outreach meetings (currently anticipated for various locations around Oahu in March 2006) to one minute:

RULE 8. TESTIMONY BY MEMBERS OF THE PUBLIC

Members of the public may address comments to the Commission at any public meeting of the Commission on matters relevant to the Commission's review of the Charter. The Chair shall determine whether comments are relevant.

At the Commission's regular meetings, comments ~~Comments~~ from members of the public shall be limited to five minutes but such time limit shall not include pertinent responses by the speaker to questions posed by the members of the Commission. Speakers shall be requested to submit two copies of their testimony to the Commission but the failure to provide testimony shall not bar a person from speaking. A speaker's time

may be limited to three minutes if, in the discretion of the Chair, such limitation is necessary to accommodate all persons desiring to address the Commission at that meeting.

Notwithstanding the above, at the Commission's public outreach meetings, testimony may be limited at the Chair's discretion to one minute.

Those members of the public desiring to address comments to the Commission shall register with the secretary at the beginning of the meeting.

Discussion:

Commissioner Kawashima reported on the second proposed change on Rule 8 – Testimony by Members of the public. Commissioner Kawashima pointed out that the current rule allows public testimony of up to five minutes and is proposing to the Commission that whoever is presiding the community meetings to be able to limit it to one minute. The reason due to the large amount of proposals moving forward to public hearing to be able to allow all the interested parties to testify, as there will be no planned voting at these meetings, which are more for educational and information gathering for the proposals that have passed the first review process. Also, to manage the Commissioner's time effectively, the proposed change was put forth to the Commission.

Chair Takaki clarified the proposed rule change. The Commission is not proposing changing the five minutes or three minutes for the first round of proposals. However when the Commission goes to the public workshops in March at that time they are recommending the change to be able to limit the testifiers to one minute for those minutes. Commissioner Kawashima affirmed Chair Takaki's clarification.

Commissioner Meder opposed to the one-minute time limit and felt that three minutes is sufficient for testifiers to communicate their testimony. Commissioner Myers agreed with Commissioner Meder and asked if there could be some compromise on the time limit, as he also felt one minute was difficult to get the testifier's idea across to the Commissioners. He asked if there could be a time limit on any one subject and change to a one-minute limit or end discussion if discussion on a certain subject became too lengthy. Commissioner Meder went on to say that the compromise Commissioner Myers proposed might be perceived as unfair as the proposed time limit may be placed on some speakers and not all speakers.

Chair Takaki asked for a motion to adopt the proposed rule change.

Action:

Commissioner Chang moved to approve the proposed amended language for Rule 8. Commissioner Myers seconded that motion.

Chair Takaki solicited public testimony.

Mr. William Woods-Bateman testified that he encouraged the Commission not to limit public testimony to one minute. He feels some issues are simple and some public testimony may be able to convey something that may be meaningful to the Commission in one minute. But some of the issues are quite complex and to be able to convey in one minute why the issue is relevant to the Charter in a simplified matter would be difficult. The Charter sometimes has the issues by subject matter and the same subject matter may appear in nine other articles and it is really difficult to decipher and explain to the Commission in a simplistic way. Strongly recommend that the Commission not limit public testimony to one minute.

Chair asked the Commissioners if they had any questions for Mr. Woods-Bateman and there were none.

Commissioner Kawashima commented that the current rule as written states the Chair has the discretion to limit testimony to three minutes. Commissioner Kawashima also commented that the public does have the opportunity to submit written testimony if they feel that they have more to express than is allowed by the rules.

Commissioner Lendio added she supports the proposed rule change. She went on to comment that if the Commission anticipates a lot of testimony and the testifiers who would like to submit oral testimony and are at the end of the calendar may not be heard or would leave because of the time frame. She would like to have the opportunity for everyone to be heard and not just those who are fortunate to be placed at the beginning of the calendar. She trusts the Chair for the time management and feels everyone should be heard.

Commissioner Mikulina concurs with Commissioner Meder regarding the one-minute time limit. Commissioner Mikulina proposed a compromise of two minutes rather than one minute.

Chair Takaki asked Commissioner Mikulina and Meder if it helped matters as Commissioner Kawashima stated that the public can submit written testimony, testify prior to the March hearings as well as all three March hearings and receive questions from Commissioners as themselves if they would like the speakers to

elaborate on their ideas. Commissioner Mikulina agreed that the public can provide written testimony but feels two minutes or even three would be ample time. Commissioner Meder also agreed that it does make it better, but feels some are not as experienced and prepared. He would concur with Commissioner Mikulina's proposed two minutes as a compromise.

Action:

Commissioner Mikulina moved to amend the motion of the proposed amended language to Rule 8 from one minute to two minutes minimum for public hearings in March. Commissioner Sullivan seconded the amended motion.

Chair Takaki asked if there was any other discussion and there was none.

Chair Takaki called for the vote by asking the Commissioners to raise their right hands.

AYES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, MEDER,
MIKULINA, MYERS, SULLIVAN, TOM – 10
NOES: LENDIO – 1
EXCUSED: HIRANO, PACOPAC - 2

Action:

Chair Takaki called for the vote as of the motion as amended. Asked if there was any discussion and there was none. All Commissioners present voted in favor of the amended proposed amendment to Rule 8.

III. Agenda Item 3 Executive Administrator's Report.

The Executive Administrator recapped that there were 25 proposals on the agenda, the second of four groups out of the 99 official proposals. He reported that the list was posted on the website and sent to everyone on the e-mail list, sent it to City Council and Administration and staff also sent letters to the submitters on the second list three weeks ago to give advance notice. The break down for the January 24, 2006 meeting was also finalized and sent letters to submitters in a similar fashion and put it on the website in late December 2005. The Commission received an incredible response in advance of the meeting; both major newspapers had stories regarding the meeting and we received a large amount of written testimony. Most were distributed to the Commissioners

prior to the meeting, but they have received more today and these will be distributed when the Commissioners reach that particular proposal on the agenda.

He reminded the Commission about the procedure for handling supermajority proposals. Since the October 31, 2005 deadline, staff had received a few more proposals for the Commissioners consideration which will be sent to the Commissioners and will be posted on the website, and are also available for review at the Charter Commission office. If any Commissioner wants to have any of these proposals put on the agenda for supermajority consideration under rule 3a, it will put on the agenda at a future meeting. There is no set deadline for the submission of supermajority proposals though the deadline for consideration is 30 day before the first public outreach meeting, which is currently set for March 7th, so that would make the deadline for consideration on Friday, February 3rd accounting for the weekend. The only other meeting scheduled between today and February 3rd is the January 24, 2006 meeting, so if there are any proposals received after that date, it might be too late. Executive Administrator Narikiyo proposed to the Commission that they might wish to consider postponing the public hearing meetings to start at a later date. The first public outreach is scheduled for March 7. They have made reservations to make sure that venues and dates didn't fill up. They are all in the evenings and is subject to change: March 7 – Kapolei Hale; March 14 – Mililani High School; March 21 – Kailua High School, and March 28 – Kaiser High School. The meetings are scheduled in the communities in the evening so the Commission could receive input and information from the different communities. Executive Administrator Narikiyo also discussed the fourth of four meeting dates, which consist of the last group of 25 or so proposals and the supermajority matters. He went on to state that the supermajority matters would need to be placed on the January 24, 2006 agenda unless the Commission had the fourth meeting before February 3, 2006. He stated they canvassed the Commissioners for January 31, 2006 to see if it would be feasible and the results looked like there were enough members to have a meeting on January 31, 2006. If the Commission agrees to have a meeting on January 31, the supermajority proposals could be placed on that agenda. Other possible dates were February 2 or 3, but the availability of the Commissioners looked good for a January 31, 2006 meeting, 11 of the 13 Commissioners would be available at the moment. He advised the Commission if they do decide to have the fourth meeting on January 31, he would like to discuss this before the end of the meeting, because he would like to give ample notice to the submitters whose proposals would be heard at that meeting.

Chair Takaki asked for public testimony on the Executive Director's report.

Mike Abe, Chair, Democratic Party of East Honolulu testified and advised the Commission that the first scheduled public hearing for March 7th, there will be a Countywide Caucus that evening and asked if the Commission could consider

moving that date. Chair Takaki advised Mr. Abe that the Commission will be having three public outreach meetings and the public is welcome to attend the other meetings if they are not able to make it to the March 7th meeting. Chair Takaki also advised that the Commission will not be voting on any of the proposals at the outreach meetings and each meeting will have the same agenda items.

William Woods testified the same issue as Mr. Abe in regards to having a public hearing on March 7th. Mr. Woods advised the Commission the Countywide Caucus meeting is open to all registered democrats. He stated that having a public hearing without one party is not appropriate and the Commission should question that date.

Marcia Joyner testified and asked the Commission to reconsider having the first public hearing on March 7, 2006 in Kapolei. She went on to say that registered voters in that district who are registered Democrats would exclude those residents and asked the Commission to reconsider.

Chair Takaki will canvass the Commissioners and see if the Commissioners can accommodate another date regarding the first public hearing. Executive Administrator Narikiyo suggested moving the first public hearing from March 7 to March 14 using Mililani High School or Kapolei Hale and would check if Kapolei Hale was available because both are in the Central Oahu/Leeward district. He went on to say the Commissioners wanted only three meetings and the Commission office reserved four locations for public hearing. This would extend the supermajority deadline for one week should the Commissioners decide to extend the public hearing by one week. Executive Administrator Narikiyo reiterated the staff availability for the Commissioner's work, and that if any Commissioner wanted research or contact with any interested organization, to let staff know.

IV. Discussion and Action – Initial Discussion and Vote on Proposal Items:

DISCUSSION:

A. RELATING TO ETHICS

1. **PROPOSAL 3** – Ethics Commission; Allow the Ethics Commission to fine violators of the ethics code.

The following individuals testified:

1. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission

Written testimony:

1. Councilmember Charles Djou, Honolulu City Council (Support)
2. Randy Perreira, HGEA (Oppose)
3. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel

Chuck Totto testified in opposition. Mr. Totto advised the Commission that proposals 3, 18 and 28 all deal with the same subject matter. He noted that Proposal 3 is the same as Proposal 28 essentially to allow Ethics Commission to impose civil fines. Mr. Totto feels that Proposal 3 and 18 should be held as they both are duplicative of Proposal 28.

Commissioner Lendio asked Mr. Totto if there was an appeal process if the Ethic's Commission fines someone and they believe it's a wrongful fine? Mr. Totto responded that the State Law requires an appeal process to an appellant agency of the City. He went on to state that if the proposal passes the electorate vote, another option would be to remove the state requirement through a change to state law and then allow an appeal directly to the courts. But currently under state law it would have to go through an appellant agency, which would have to be created, then after that presumably the person could go to the courts if the person didn't agree with the appellant agency. Commissioner Lendio then asked Mr. Totto for clarification of the proposal, if the proposal would have to have appellant agency created for the appeals of the fines law if the proposals passes the electorate vote which would allow the Ethic's Commission to impose fines then at that point whether or not the have exhausted all of their administrative remedies, if they still don't agree with the outcome, they can appeal to the circuit court. Mr. Totto replied affirmatively and stated it is the current state law. Commissioner Sullivan asked Mr. Totto asked if he was able to review the HGEA testimony. Mr. Totto replied no he has not seen it. Commissioner Sullivan summarized the concerns in the written testimony submitted by the HGEA was the penalties would be the equivalent of double jeopardy on collective bargaining employees and asked Mr. Totto if he had any comments. Mr. Totto responded that he has heard and discussed the concern before with HGEA. He went on to say they are not looking to do employment double jeopardy. He believes it would be incumbent on the Commission to work with the appointing agency where the employee works to ensure that there is not employment double jeopardy. The process the Ethics Commission currently does work with the agency and explained the process they use with collective bargaining employees to prevent employment double jeopardy. As a follow

up Mr. Totto went on to state if the proposal passes the electorate vote, he feels the appropriate way is to address this when the authorizing legislation is reviewed at Council.

Commissioner Chang asked Mr. Totto what incident(s) prompted the proposal and if there were any determination if they're administrative agency was not efficient in meeting its disciplinary action? Mr. Totto responded no. Mr. Totto also mentioned past issues that raised concerns by the government and public and the process was not in place prior. Mr. Totto reviewed the past five years since he has been in office and testified that employees that have appointing authorities have disciplinary process in place. The critical problem is with elected officials because their boss is the voting public and the voting public can only deal with them when they are up for election or if the misconduct is serious and rises to the level of impeachment. They also researched other cities and states and the vast majority has a similar process with their Ethics Commission. They have had concerns raised by HGEA and Department of Corporation Counsel regarding the current system. Mr. Totto stated that this will take a lot of work and will involve the City Council and possibly change in state law, and the Ethics Commission is ready to do that.

Commissioner Lendio asked if the Ethics Commission's primary concern one of deterrence that if you feel you have fining power people won't commit the offenses? Mr. Totto responded in the affirmative. He went on to note the Ethics Commission has been going through growing pains within the last five years first the Commission had to do training and has reached a point that the major effectiveness is deterrence. Commissioner Lendio expressed that she feels the current system does work. She also stated she understands the lack of budget support from various administration, but her concern is the Ethics Commission would utilize the power in the proposal to generate revenue like the Liquor Commission and the State Campaign Spending Commission to try to be self sufficient and come close to abusing its power simply to become a revenue generating body giving the fact there are many laws for sanctions for disciplinary breeches. Mr. Totto agreed with her concerns. He stated the Commission has voted to propose that any penalties or fines not be returned to the Commission presumably they go to the general fund. The Commission is not interested in something similar to the Campaign Spending Commission because it can put the Commission in a conflict of interest, which he feels the Ethics Commission should try to avoid.

Chair Takaki noted that Mr. Totto stated that Proposals 3, 18 and 28 are basically the same issue. Chair Takaki asked Mr. Totto if he had a chance to review the proposals and of the three proposals which proposal would Mr. Totto be most aligned with. Mr. Totto responded Proposal 28. Chair Takaki asked Mr. Totto in terms of the proposal is there a distinction between a bargaining unit employee who would perhaps be subjected to double

jeopardy versus and elected official being subject to the ethics commission? Mr. Totto responded in the affirmative. He suggested to the Commission if the Charter Commission is uncomfortable with applying an across the board civil fine, he'd suggest that to look at least at elected officials. He feels there's a rational basis to distinguish elected officials to an employee in a bargaining unit or civil service employees who are not in a bargaining unit. Elected officials do not have an appointing authority that renders discipline, is the significant difference. Chair Takaki asked for clarification as to whether other Ethics Commission of other counties in Hawaii could pose fines. Mr. Totto replied that Kauai County has it in their laws but has not done it nor set a specific fine amount.

2. PROPOSAL 18 - Ethics Commission - Give the Commission enforcement powers in the way of fines or other punishments

There was no public testimony.

Written testimony:

1. Councilmember Charles Djou, Honolulu City Council (Support)
2. Randy Perreira, HGEA (Oppose)
3. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel

Commissioner Sullivan asked Corporation Counsel regarding if the State Ethics Code Civil fine penalties to collective bargaining individuals.

Deputy Corporation Counsel Diane Kawauchi responded that she doesn't believe the State Ethics Commission has fine authority.

3. PROPOSAL 28 - Ethics Commission; Allow the Ethics Commission to impose civil fines.

The following individuals testified:

1. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission (Support)

Written testimony:

1. Councilmember Charles Djou, Honolulu City Council (Support)
2. Randy Perreira, HGEA (Oppose)
3. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel

Chuck Totto testified in support. Mr. Totto addressed Commissioner Sullivan's previous question regarding the State Ethics Commission. The State Ethics Commission does not have fining authority but has requested it from the State Legislature for the last two years and not been successful. Commissioner Sullivan clarified with Mr. Totto his recommendations on this proposal that as a compromise alternatively to delete collective bargaining employees and focus on elected officials. Commissioner Sullivan went on to asked Mr. Totto his position relative to Corporation Counsel's written testimony, which stated that the proposal raises constitutionality issues and would not be able to be defended then asked for his counter argument so the Commissioners could get a better understanding.

Chair Takaki thanked Mr. Totto for coming to testify.

4. PROPOSAL 29 - Ethics Commission; Clarify the independence of the Ethics Commission.

The following individuals testified:

1. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel
2. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission
3. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services

Written testimony:

1. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services
2. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel

Carrie Okinaga, Director of the Department of Corporation Counsel testified as the head of the Ethics Department is administratively attached to her office, but not necessarily in a legal capacity. The proposal before the Charter Commission is to look at the Department of Corporation Counsel system as a whole to determine if certain parts or the whole department needs fixing. Ms. Okinaga affirms that she is strongly in support of the ideological independence of the Ethics Commission that already exists in the Charter. The Ethics Commission, for administrative purposes only is attached to the Department of Corporation Counsel and also has the right to retain their own legal counsel, which the City Council does not have. Ms. Okinaga affirms her utmost respect for the current Executive Director, but she is looking at the structure as a whole and not

necessarily the people within it. The proposal is purportedly about clarifying the independence which leads to a good discussion between the Corporation Counsel and the Ethics Commission, and they agreed to maintain open communications, which she believes is the main reason for the proposal. She would hesitate to make law on past practices and would make an effort to maintain to have open communications between them about personnel decisions from DHR and decisions coming from BFS and not decisions by Corporation Counsel. Commissioner Lendio then asked Ms. Okinaga what would be her concern if Ethics Commission becomes an independent body? Ms. Okinaga replied the proposal is an intermediate position, it's saying Ethics Commission has final say over budget and personnel decisions but is still attached to Corporation Counsel and she feels that's where she sees the flaw. She would still be responsible for answering questions before the Council, if the Auditor questions the Corporation Counsel Department, but her office would not be able to veto decisions of the Ethics Commission. Her second concern is they seek a Charter set budget, and she feels its precedence as there is no other department, nor the Council has a Charter set budget and there has been no rationale, what the percentage should be, and how it would be tied together. She also has a problem with the practical reality of how it would work out. There are also equity issues of all the other Commissions and small boards and agencies, there are too many to have a department level status. She noted that for administrative purposes other agencies and commissions are attached to departments, Liquor Commission, Planning Commission, Zoning, Board of Appeals and would all ideologically say they are independent, but are attached for administrative purposes.

Commissioner Lendio followed up with a question for Mr. Totto. Did the Ethics Commission propose to the 1998 Charter Commission regarding the Ethics Commission's independence or autonomy at that time? Mr. Totto responded that he couldn't remember but offered to check up on the question. Mr. Totto went on to testify that he appreciates the comments made by Corporation Counsel and they are working out an understanding and stated that maybe there could be a Memorandum of Understanding between Corporation Counsel, Budget and Fiscal Services and Ethics Commission. Mr. Totto explained there are two items; the day to day budgetary or personnel functions where Corporation Counsel has the expertise to guide the Ethics Commission through the process. The Commission determines it wants to reserve a rainy day litigation fund and what if Corporation Counsel determines they would like to use that rainy day fund; each office's interpretation of the current charter might differ. Mr. Totto went on to say that if the proposal was to move forward for further consideration by the Charter Commission while the Ethics

Commission and Corporation Counsel continue their discussions, and they come to an agreement, the proposal would no longer be needed.

Mary Pat Waterhouse testified they have concerns regarding if the Ethics Commission is administratively attached to Corporation Counsel, Corporation Counsel has the responsibility to review the budget. The other concern is the recommendation in the proposal that it should be based on a percentage amount but a budget should not be based on percentage amount of the whole organization but rather based upon needs. Commissioner Chang asked for clarification on her statement regarding budgets that are submitted to the Budget and Fiscal office for review on behalf of city entities and agencies through the departments they are administratively attached too. Ms. Waterhouse replied in the affirmative. Commissioner Chang went on to state that if the proposal passed and adopted, the Ethics Commission would have the privilege to submit their budget directly to her department. Ms. Waterhouse replied in the affirmative.

Chair Takaki asked for clarification of her testimony regarding it is not a philosophical one but more relating to the process? Ms. Waterhouse agreed. She went on to state they have concerns relating to the recommendation of their budget.

Chair Takaki asked Mr. Totto, what was the feeling of the Ethics Commissioners regarding the necessity to clarify the independence by having their own budget? Mr. Totto responded the Commission voted unanimously to propose the amendment. Chair Takaki then asked in relation to Commissioner Chang's question in the previous proposal if there were any past practices that have prompted the proposal? Mr. Totto responded that Ethic's Commission across the country try to find ways to insure there is no untoward influence by the appointing authority or the council of the members Ethics Commission who is there to policing the appointers. One of the ways is to try to build a wall of independence if possible. There has been no past circumstance during his time with the Commission.

5. PROPOSAL 30 - Ethics, Charter Commission, Reapportionment Commission; Include the members of the Charter and Reapportionment Commissions as City Officers for purposes of the ethics laws.

The following individuals testified:

1. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission
2. Tom Heinrich

Written testimony:

1. Carrie Okinaga, Corporation Counsel, Department of the Corporation Counsel

Chuck Totto testified the time and laws have changed since the proposed issue was last looked in 1971/1972 Charter Commission. There is no longer a limitation on city employees or personnel law being on the Reapportionment Commission nor is there a limitation on Commission members or Board members appearing before the city agencies, which was a concern 35 years ago. Mr. Totto stated that he views the Charter Commission as being similar in function to the Council. The Charter Commission looks at what laws are appropriate reviewed and hammered out just as the Council. The Charter Commission passes on proposals to the voting public, the Council passes laws to the Mayor. Mr. Totto went on to state he views the Charter Commission on a par with the Council in whether the Ethic Laws would apply as they do to the Councilmembers. There's a particular exemption where they don't have to reclude themselves from matters but have to declare any conflict of interest in writing. Commissioner Lendio asked Mr. Totto regarding the law doesn't prohibit, i.e. if a board member of another City Commission and they wanted to be on the Charter Commission there would be no problem? Mr. Totto replied there is a Charter section that might prohibit it, however a State law states notwithstanding any law to good contrary that they could sit on both. Commissioner Lendio went on to say that it would still add an ambiguity in the law because of the Charter provision. Mr. Totto replied he was unsure and would have to research more thoroughly, but normally the state law when saying no law to the contrary would negate the Charter's limitation. The state law says they could sit on both Commissions if they are not incompatible or interfere with each other. Commissioner Lendio raised another concern regarding if Mr. Totto would agree that if the Charter Commissioners were officers of the City for the purposes of the Ethics law, then they should not be officers of the City for everything else. She stated if they were treated as officers for the city under the Ethics law then they should be treated as officers for everything else. Commissioner Lendio went on to state Mr. Totto mentioned the Charter Commission functioning like the City Council though if the City Council is sued in their capacity as Councilmembers, they get legal representation. Commissioner Lendio then stated that she has a question because of their status of an officer or not and whether or not they are provided legal representation as a city officer, which is her concern from the legal aspect. Mr. Totto replied it's a very good point. He went on to state from the Ethics point of view they focused the proposal on Ethics, the standard of conduct. Mr. Totto went on to say if the Administration

and the Council who is the appointing the Commission is expecting the Commissioner to best job they can, it seems incongruous to not have all the Commissioners to be protected as the same way as the Councilmember and other Commissioners would be. He stated it is an impediment and as an attorney he would have a serious concern if he was outside and if he was asked to sit on the Ethics Commission.

Tom Heinrich testified in support. He read section 13-119 of the Charter – No person shall hold more than one public office or position under the city, except that city officers and employees shall be precluded from membership on a neighborhood board. One of the major distinctions has been whether you have been an officer of the City and County, as a past member of the Neighborhood Commission he was an officer of the City and represented by Corporation Counsel. As a Neighborhood Board member for many years legal representation was not given. Mr. Heinrich went on to say that any member of any Commission of the City should have that representation afforded to them through Corporation Counsel. Neighborhood Boards are different because of the unique situation of that organization.

Commissioner Chang asked if a representative from Corporation Counsel could comment regarding Corporation Counsel's written testimony page 2, paragraph 3 referencing statements by Mr. Dodge during the 1971 Charter Commission and felt that might be constructive to understand the issue. Commissioner Chang went on to say that it distinguished the Charter Commissioners were not officers because the position in government was not permanent and the Commissioner has no authority to take and implement action in the same manner as a permanent officer of city government. Deputy Corporation Counsel Diane Kawauchi responded they had provided the Commissioners copies the 1971 Charter Commission Charter final report, which deputies of Corporation Counsel refer to often. It clarifies what the Commissioners had in mind when first going into position. Historically, the 1971 Charter Commission was the first under home rule. The 1959 Charter had to be approved by the State Legislature so it was not a home rule charter. Ms. Kawauchi went on to say the statement by Commissioner Dodge in the written testimony as well as the philosophy by Commissioner Quinn indicated why they considered themselves a constituent body, they considered themselves being unlike any other boards and commissions, appointed for only 18 months or so and only proposing charter amendments to the electorate and not have final say on proposals.

6. **PROPOSAL 31** - Impeachment; Provisions re impeachment of elected officials are invalid; options to correct the charter.

The following individuals testified:

1. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission

Written testimony:

1. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel

Charles Totto testified that it is unlikely that a current impeachment law is valid that is was intended that one of the process is to remove a Councilmember, Prosecuting Attorney or Mayor may or who commit Ethical misconduct is through impeachment and they would request an amendment be considered not necessarily to be put forth, but another option is through state law which is more appropriate.

7. **PROPOSAL 41** - Standards of Conduct; Codify within the Charter existing state law and provide, uniform standards of conduct within all City entities.

The following individuals testified:

1. William Woods-Bateman (Support)
2. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission

Written testimony:

1. William Woods-Bateman (Support)
2. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel (Oppose)
3. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission

William Woods-Bateman testified in support and also stated that Proposals 41 and 44 are identical. He went over a few points of his written testimony. He went on to state he read Corporation Counsel's written testimony submitted for Proposal 41 & 44 in opposition of the proposal as well as speaking with Mr. Totto. Mr. Woods went on to say that Corporation Counsel's testimony states there's a concern regarding Ethics Commission has to review sanctions but it's not. He believes they misread the proposal, because specifically under Section 11-110(a) of the proposal states the responsible authority currently for the employee to review and investigate will have the ability to do the sanctions or collective

bargaining agreement will maintain that but clearly state in the Charter that enforcement is included. He went on to say that in some segments of the Charter enforcement is not included and as a result Corporation Counsel and other have ruled opinions they are unable to do it because there don't have the sanction ability under authority. Mr. Woods then stated one of the issues of his concern is Contractors. Contractors are found throughout the Charter but they are not specific nor does the city have a template stating that Contractors need to comply with all the provisions and laws the city has.

Charles Totto went over reasons why they would like Proposals 41 & 44 should be held. Mr. Totto appreciates what Mr. Woods is trying to do but as an attorney he went on to say that it's a tough task to reorder various provisions of the Charter and put them in another section and thinks Mr. Woods did the best job he could. Mr. Totto went on to say that it raises some issues. It's a practical matter that the Ethics Commission already investigates prohibited practices that apply to Civil servants under the Charter Section 6-1112. The Ethics laws are very broad but the Ethics laws in Section 6-1112 are narrower, but because they have a broad overview they will include in their investigations complaints regarding the prohibited acts in Charter Section 6-1112. He went on to say that they disposed of the case where they found someone had violated the anti-nepotism statute or law. Under this proposal Section 11-106(a) does bring a new section with broad anti-discrimination prohibition, and he feels when he reads the proposed language the Ethics Commission needs to enforce that. He stated that they cannot nor is it appropriate to do that and it's duplicative of state, federal and other city agencies. Mr. Totto went on to talk about the issues of independent contractors and stated the Ethics Commission can already request Corporation Counsel if an independent contractor is involved in a violation of the Ethics laws. The Corporation Counsel can void the contract, and may attempt recoup any benefits to the Contractor.

8. PROPOSAL 44 - Standards of Conduct; Codify within the Charter existing state law and provide uniform standards of conduct within all City entities.

The following individuals testified:

1. William Woods-Bateman (Support)

Written testimony:

1. William Woods-Bateman (Support)
2. Carrie Okinaga, Director, Department of Corporation Counsel (Oppose)

1. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission

William Woods-Bateman continued his testimony from Proposal 41. Mr. Woods-Bateman is in support and stated the objections by Corporation Counsel and Ethics Commission is not accurate. He went on to say that if you look at the Proposal section relating to penalties 11-110, fifth line strikes "may upon the recommendation of the Ethics Commission". They don't take on that function, they've interpreted it as they do take on that function, further in the section states who's responsible for that function what is currently in the law in terms of the Charter which says, "standards of conduct established by this article of the charter or by ordinance, consistent with collective bargaining agreements and civil service laws." It's very clear and already exists in the Charter; this proposal puts it in one place. Mr. Woods-Bateman went on to talk about the proposed section 11-110(b) Penalties; goes through each section currently in the Charter's standard of conduct and states by department and/or program that is currently involved with it. There's one section keynote that's confusing it says; "future employment, and registration of lobbyists shall be administered by the Ethics Commission as established by the charter and/or Corporation Council, city Department of Human Resources, or contracting officer/agency" and reflects all the subcategories that are currently in the law. He went on to further discuss the proposal. Mr. Woods-Bateman reiterated that the proposal is not a change but protecting the elements of the city and the public will have the same expectation of levels of conduct as well as the assurance of unwritten policy for contractors to follow the same guidelines if they are using city resources and/or time. Currently the public assumes that is what contractors are doing but from the ruling from Corporation Counsel and the current administration, the contractors are not held to the same standards doing city business and the public expects that to happen. Contractors are written in several different areas that are inconsistent and the sanctions are not allowable because they are not mentioned in several sections. Commissioner Mikulina asked Mr. Woods-Bateman regarding the statement made by the Ethics Commission subject to becoming the universal social justice agency by placing the anti-discrimination line within their section of the charter, which might task them of being the police for anti-discrimination. Mr. Woods-Bateman responded under the proposed amendment section 11-110(b)1 and its specific that the equal opportunity is reviewed by the Department of Human Resources. Another section is interpreted regarding penalties that says the Ethics Commission but then it says and/or Corporation Counsel or department and goes on and says who is in charge of doing the review and investigation. It's a misinterpretation of the section because there are different sub-items.

Commissioner Mikulina then asked what is the motivation of putting this in the Charter. Mr. Woods-Bateman responded the Charter is inconsistent. He went on to state he was an EEO coordinator for the city in the 1980's and learned as he worked with city departments as the departments had different EEO rights and if one department was in violation, the charter didn't allow the department to review that issue. The recent factor is relating to contractors and fundraising money during city time created a dilemma because city contractors are not under the same provision as city employees and other officials. Mr. Woods-Bateman went on to say the idea of the proposal is to put the language and make it consistent so when the public or anyone who wants to address a city issue or an employee they know one place to go and find all the information and know what agency or agencies they can get information from. Chair Takaki asked Mr. Woods-Bateman if he sees any downside of passing the proposed amendment? Mr. Woods-Bateman responded if the proposed amendment is passed, agencies will have to change or expand their administrative rules or any ordinances related enabling the proposed charter functions. He went on to say that he agrees that the charter is for politics and not to set the specifics. The day-to-day mechanism needs to be done by the departments that have authority. Chair Takaki then asked if Mr. Woods-Bateman has a preference between Proposal 41 and 44. Mr. Woods-Bateman stated the proposals are identical. Commissioner Sullivan asked Mr. Woods-Bateman for clarification regarding his statement stating items in the proposal exist in the current Charter somewhere. Mr. Woods-Bateman replied in the affirmative.

9. PROPOSAL 68 - Boards and Commissions: Revise provisions re Conflict of Interest for members of boards and commissions.

The following individuals testified:

1. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission (Oppose)

Written testimony:

1. Carrie Okinaga, Director, Department of Corporation Counsel (Oppose)
2. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission (Oppose)

Charles Totto testified in opposition and suggests that the proposal be put through an ordinance rather than a charter amendment. He went on to state the Ethics Commission has not received a lot of requests nor given advice relating the issue. It exists in ROH Sec. 3-8.2. Additional standards of conduct; suggest that's a possibility if the Commission could set criteria

to distinguish between policy issues rather than nuts and bolts of government. Mr. Totto went on to state he provided a history in his written testimony. Commissioner Mikulina asked Mr. Totto if he has come across any cases where a Board or Commissioner has a conflict between their fiduciary responsibility towards their firm and decision-making capacity as an officer, specifically not an issue directly attached to their firm but may affect another firm which still sets a precedent that may in turn affect their firm. Mr. Totto replied there were cases where Commissioner has a financial interest employment with an entity that two things; one it would at least it appear to cause a conflict of interest that came before the commissioner vis-à-vis that particular employment and also vis-à-vis the competitors. He stated he doesn't believe in the last five years they've had any formal advisory opinions on those situations but they have given advice and it has been followed. Some cases the individual would have to leave that particular Board or Commission. Commissioner Lendio asked Mr. Totto shouldn't the standard be applied to people who are employed by organizations who hope to defeat the permit? Commissioner Lendio went on to state if the Ethics Commission is going to hold the standards to a Board Member or Commissioner employed by the organization or related organization who is trying to get the permit approved, it should also be applied to a Board Member or Commissioner who is employed by an organization or related organization who is trying to get the permits denied. Mr. Totto replied he would agree with Commissioner Lendio that the standard should be applied regardless on which side of the argument the Board Member or Commissioner is on. Commissioner Lendio commented that this proposal would be more appropriately handled by ordinance then a charter change. Commissioner Sullivan asked if the proposal was meant to apply to a Board or Commission that grants a permit or an approval, what Board or Commission grants a permit or approval? Mr. Totto replied the Department of Planning a Permitting basically approve or rejects permit approvals and appeals to the Zoning Board of Appeals or the Building Board of Appeals, those are the Boards and Commission. Mr. Totto went on to say the Boards and Appeals depends on how you interpret the application process because it's not clear.

10. PROPOSAL 88 - Ethics Commission; Change Ethics Commission member selection process and allow Commission to set executive director salary.

The following individuals testified:

1. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics Commission

Written testimony:

1. Carrie Okinaga, Director, Department of Corporation Counsel
(Oppose)
2. Charles (Chuck) Totto, Executive Director and Legal Counsel, Ethics
Commission

Charles Totto went over his written testimony with background information relating to the proposal. Commissioner Lendio asked for clarification relating to Mr. Totto's testimony regarding his proposed change of the current system which the Mayor appoints and the City Council confirms the Executive Director for the Ethics Commission to something akin that the State has where the State Judicial Council goes through applicants and makes a recommendation to the governor and the governor picks the candidate? Mr. Totto clarified that he or the Ethics Commission did not submit the proposal. Mr. Totto would have to bring the proposal to the Ethics Commission to get their feeling on the proposal. Commissioner Lendio then asked if Mr. Totto was advocating the State's procedure or retention of the city's procedure. Mr. Totto replied neither. Chair Takaki asked to take a 15-minute recess. Commissioner Lendio motioned to take a 15-minute recess, Commissioner Grau seconded the motion. There was no discussion.

RECESS at 4:00 p.m.

RECONVENED at 4:15 p.m.

Chair Takaki stated to let the record reflect Commissioner Tom is now in attendance at the meeting and Commissioner Meder will be leaving the meeting at 4:45p.m. but will return later. Commissioner Myers asked for clarification of procedure if proposals need to be voted down to not move on. He then asked if a proposal is not tabled does the proposal not move forward for lack of action? Chair Takaki clarified at the December 13, 2005 meeting for clarity, the Commissioners should make a motion on the proposals to be voted on. Commissioner Lendio point of clarification stated that she believed if a proposal is not voted upon that it can be revived later, so you need to affirmatively vote it down. Commissioner Grau asked if the proposals could be taken out of order? Commissioner Lendio replied it's the Chair's discretion. Chair Takaki responded his preference is to vote in the order in which they have received the proposals. He went on to say during the course of the voting if there are any concerns they can be brought up during the discussion. Commissioner Myers stated that what he believes what Commissioner Grau was trying to get across is that if he know Proposal 28 was being voted upon to pass on to public hearing, he wouldn't vote

on Proposals 3 & 18. Commissioner Grau agreed. Chair Takaki allowed proposal 28 to be taken out of order and vote upon first.

ACTION:

A. RELATING TO DEPARTMENTS AND DIRECTORS

1. **PROPOSAL 28** – Ethics Commission; Allow the Ethics Commission to impose civil fines.

ACTION – Proposal 28 to move on for further consideration – motion passed. Moved by Commissioner Mikulina, seconded by Commissioner Lendio. No discussion followed.

AYES: TAKAKI, COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, SULLIVAN - 9
NOES: CHANG, TOM – 2
EXCUSED: HIRANO, PACOPAC – 2

2. **PROPOSAL 3** – Ethics Commission; Allow the Ethics Commission to fine violators of the ethics code.

ACTION – Proposal 3 to move on for further consideration – motion failed. Moved by Commissioner Myers, seconded by Commissioner Lendio. No discussion followed.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MEDER, MIKULINA, MYERS, SULLIVAN, TOM – 11
EXCUSED: HIRANO, PACOPAC - 2

3. **PROPOSAL 18** – Ethics Commission; Give the Commission enforcement powers in the way of fines or other punishments.

ACTION – Proposal 18 to move on for further consideration – motion failed. Moved by Commissioner Myers, seconded by Commissioner Lendio. No discussion followed.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MEDER, MIKULINA, MYERS, SULLIVAN, TOM – 11
EXCUSED: HIRANO, PACOPAC - 2

4. **PROPOSAL 29** – Ethics Commission; clarify the independence of the Ethics Commission

ACTION – Proposal 29 to move on for further consideration – motion failed. Moved by Commissioner Mikulina, seconded by Commissioner Grau. Discussion followed.

Commissioner Chang stated he'd be voting against the proposal based on the concerns raised by the Department of Budget and Fiscal Services and the Department of Corporation Counsel. Commissioner Mikulina stated he'd like to support the proposal to moving forward for further consideration. He does have concerns over setting a percentage for their budget based on the city's overall budget. But he appreciates the Ethics Commission unanimous support for the proposal as is and it deserves further hearing. Commissioner Lendio will also be opposing the proposal and believes it should be handled internally within the department and the administration and is inappropriate as a charter amendment.

AYES: COFFEE, GRAU, MEDER, MIKULINA - 4

NOES: TAKAKI, CHANG, KAWASHIMA, LENDIO, MYERS, SULLIVAN,
TOM – 7

EXCUSED: HIRANO, PACOPAC – 2

5. **PROPOSAL 30** – Ethics, Charter commission, Reapportionment Commission; Include the members for the Charter and Reapportionment Commissions as city officers for purposes of the ethics laws.

ACTION – Proposal 30 to move on for further consideration – motion passed. Moved by Commissioner Mikulina, seconded by Commissioner Sullivan. Discussion followed.

Commissioner Lendio stated she is in opposition of the proposal, she believes the language and current charter that Commissioners serving on the Charter and Reapportionment Commission would be prohibited to have dual capacities in serving on the Charter Commission as well as other Commissions in the city. She has legal concerns in definition of officer and duties and responsibilities and rights are afforded to city officers under the current law and she is also persuaded by the 1972 Charter Commission's comments relating to the temporary nature of the Charter Commission. Commissioner Mikulina noted the testimony by the Ethics Commission and will be supporting the proposal move on for further consideration. Chair Takaki asked Commissioner Mikulina what he would see to be the benefit to having the Charter and Reapportionment Commission considered as city officers? Commissioner Mikulina responded that there were two items; counsel representation for Commissioners if they were to

be covered by Corporation Counsel or if they would have to hire their own independent counsel should problems arise later. Also should the Commissioners fall under the same disclosure and other requirements under the Ethics Commission; he doesn't think they don't right now. Commissioner Grau asked if it was possible to amend the proposal to take away some of the problems Commissioner Lendio sees? Chair Takaki responded in the Commissions overall process the Commissioners decided in December, amendments would be made after the public workshops.

Commissioner Grau asked for clarification from Commissioner Lendio on why she's opposed to the proposal. Commissioner Lendio responded that the proposal is surreptitiously only carving out one law, Ethics law and applies those standards to those Commissioner members. She goes on to say they would be subjective to the Ethics law but would not be subjected to any others, which would apply to city officers, nor would they be afforded the rights and opportunities that city officers may have as she was stating the ability to obtain legal representation in a lawsuit. Commissioner Grau asked Commissioner Lendio if the proposal could be amended in a way where it could include her concerns. Commissioner Lendio responded it could if the proposal is moved forward as Chair Takaki had indicated, her concern would then be those Commissioners who serves on other Commissions, if the proposed amendment is passed, would be precluded from sitting on the Charter Commission. Although it wouldn't apply to this Charter Commission, with regard to future Charter Commissions, those who sit on existing Commissions will not be allowed to sit on the Charter Commission.

Commissioner Grau then asked Commissioner Mikulina the same question as he did Commissioner Lendio. Commissioner Mikulina responded the proposal could be amended later to clarify the particular sections of the charter that state Commissioners cannot serve on say except for the Charter and Reapportionment Commission and provide an exemption for that. Commissioner Chang stated he'd be voting in opposition for the reasons that Commissioner Lendio has articulated. Commissioner Sullivan stated she respects the concerns being raised but will be voting in support of moving the proposal forward in hopes to get clarification on questions i.e. position of the Ethics Commission which implies the State HRS overrides the RCH sections. Commissioner Sullivan stated from a legal standpoint she's unclear of the interpretation.

Chair Takaki asked the audience if someone from the Ethics Commission was available in the audience to answer Commissioner Sullivan question. Mr. Charles Totto read footnotes on page 2 of proposal 30 regarding RCH Section 13-119: Dual offices or position. Mr. Totto explained employee means officers and employees when you look at state law and this section applies to employees of the state and the counties. HRS Section 78-1.5: states that employees have the same meaning as defined in Section 76-11. Section 76-11 defines employee

to mean any person holding a position in a service of a jurisdiction, irrespective of status or type of employment. In the same section, jurisdiction is defined to include the state, the City and County of Honolulu as well as the other counties. Mr. Tutto went on to say that in the state law, there may be ambiguity, but in this situation it will be very hard to say the State law doesn't have to take precedence over the dual position prohibition that is in the charter because the State law applies to everyone, which is the basis of the Ethics Commission position.

Commissioner Tom asked if the Charter Commissioner would follow ethics laws what are some of the requirements that the Commissioners would have to follow. Mr. Tutto responded there would be a number of forms to file; financial disclosure forms which is basically a statement of assets and debts and will be confidential and maintained in the Ethics Commission office and will not be open to the public. Mr. Tutto went on to say if the Commissioners had outside employment, they would have to file a disclosure about that employment and will also be kept confidential. If the Commissioners have a conflict of interest that arose while serving on the Commission, under the charter they would file a conflict of interest disclosure that would be open to the public. Mr. Tutto went on to say the Commissioners would have to attend ethics training, which is mandatory for officers and commissioners. Commissioner Tom asked for a clarification of financial disclosure statement confidentiality if it differs from city appointee financial disclosure, which is open to the public. Mr. Tutto responded it's different than a department director, deputy director or similar state official, which forms are open to the public. He went on to say all commission and board member financial disclosure statements are under the ordinance required to be maintained confidential and kept under lock and key. Mr. Tutto went on to say if the press calls for information they are unable to disclose any information. Commissioner Tom then asked Mr. Tutto the rights to the privacy act and freedom of the press would not apply here? Mr. Tutto responded in the affirmative.

AYES: COFFEE, GRAU, MEDER, MIKULINA, MYERS, SULLIVAN - 6
NOES: TAKAKI, CHANG, KAWASHIMA, LENDIO, TOM – 5
EXCUSED: HIRANO, PACOPAC - 2

6. **PROPOSAL 31** – Impeachment; Provisions regarding impeachment of elected officials are invalid; options to correct the charter.

ACTION – Proposal 31 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Sullivan. No discussion followed.

AYES: TAKAKI, COFFEE, GRAU, LENDIO, MEDER, MIKULINA, MYERS,
TOM - 8
NOES: CHANG, KAWASHIMA, SULLIVAN – 3
EXCUSED: HIRANO, PACOPAC - 2

7. **PROPOSAL 41** – Standards of Conduct; Codify within the charter existing state law and provide uniform standards of conduct within all city entities.

ACTION – Proposal 41 to move on for further consideration – motion passed. Moved by Commissioner Myers, seconded by Commissioner Lendio. Discussion followed.

Commissioner Lendio stated she will support proposal 41 moving forward but would like significant amendment to the proposal. She stated if the current proposal was presented in the form and the substance of the many ideas in this proposal, it may confuse the voters and may not achieve the proposal's purpose and may not pass. Commissioner Lendio stated her concerns of voter confusion, understands and applauds the conceptual support of the proposal idea, but the matter of passing a law and convincing the voters that it is a good law would be difficult. She went on to say she would like to see significant amendment. Commissioner Myers agreed with Commissioner Lendio. Commissioner Mikulina will also be supporting to move proposal 41 forward but would like Mr. Woods and Mr. Totto and the Ethics Commission to discuss and work together on amending the proposal. Chair Takaki stated his concerns relating to the written testimony submitted by Corporation Counsel regarding the proposal applying to subcontractors of the city and would also like to see this issue clarified.

AYES: TAKAKI, CHANG, GRAU, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, SULLIVAN, TOM - 10
NOES: COFFEE – 1
EXCUSED: HIRANO, PACOPAC - 2

8. **PROPOSAL 44** – Standards of Conduct; Codify within the charter existing state law and provide uniform standards of conduct within all city entities.

ACTION – Proposal 44 to move on for further consideration – motion failed. Moved by Commissioner Myers, seconded by Commissioner Lendio. No discussion followed.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,

MEDER, MIKULINA, MYERS, SULLIVAN, TOM – 11
EXCUSED: HIRANO, PACOPAC – 2

9. **PROPOSAL 68** – Boards and Commissions; Revise provisions regarding conflict of interest for members of boards and commissions.

ACTION – Proposal 68 to move on for further consideration – motion failed. Moved by Commissioner Myers, seconded by Commissioner Lendio. Discussion followed.

Commissioner Lendio stated she'd be voting in opposition as she feels this should be done through ordinance and not a charter amendment. Chair Takaki stated his concerns regarding question raised by Mr. Totto stating this would apply to those requesting permits but not to those who are opposing permits and would like to have even standard which it doesn't include now and would be voting in opposition.

Commissioner Mikulina clarified the purpose of his introduction of the proposal due to some concerns he's encountered of lack of independence from some of boards and commissions that make important decisions. He clarified the proposal is for a decision-making member who has earned or earns a significant portion of their income within the past two years from serving on the board or commissioner which grants permits or approval. This proposal is similar at the state level with state lawmakers. After a year in office they would have to wait two years before they can lobby. Commissioner Mikulina went on to agree with Commissioner Lendio's comment that the proposal should apply also to those who are stopping permits.

Commissioner Meder asked Commissioner Mikulina how is "significant" determined. Commissioner Mikulina responded that some attorneys would also have a problem with that also because it's very broad and vague, but so is much of the charter. The definition of significant would need to be clarified and went on to say there are a lot of broad and vague laws in the city charter and state constitution that leave it to the courts to determine should it be challenged.

Chair Takaki asked Commissioner Mikulina if the proposal would impact the ability of the city to attract qualified board or commission members? Commissioner Mikulina responded no.

Commissioner Sullivan commented she would be voting against the proposal. She doesn't disagree with the intent but feels it's too vague in addition to the question on how do you determine significant income. She went on to say she doesn't understand which board or commission they are trying to target that grants permits and approvals, believes the concern is at the appointment process

and types of appointees that are being appointed to those board and commissions and that is where the real need of the proposal needs to be and not trying to regulate it through the city charter.

Commissioner Grau asked Commissioner Mikulina, which boards and commissions was he thinking of? Commissioner Mikulina responded that he wasn't thinking of any boards and commissions in particular. Commissioner Grau then asked doesn't the Ethics Commission look at potential conflict of interest and is that need already served? Chair Takaki asked Mr. Totto to respond to Commissioner Grau's question. Mr. Totto responded in the affirmative but the issue needs to be brought to their attention through a request for advice or complaint. Mr. Totto addressed the appointment process, he stated they do not have a formal review. He went on to say that because it happens quickly, he looks at the resume of a nominee for a board or commission. The nominee fills out a sheet asking if the nominee has any interest that would be incompatible with their position. He went on to say they've had disagreements with the administration but it's not a formal process.

AYES: MIKULINA - 1
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MEDER, MYERS, SULLIVAN, TOM – 10
EXCUSED: HIRANO, PACOPAC - 2

****COMMISSIONER MEDER LEFT THE MEETING****

10. **PROPOSAL 88** – Ethics Commission; Change Ethics Commission member selection process and allow Commission to set executive director salary.

ACTION – Proposal 88 to move on for further consideration – motion failed. Moved by Commissioner Sullivan, seconded by Commissioner Lendio. Discussion followed.

Commissioner Lendio stated she would be voting in opposition as the Commission already sets the Executive Director's salary within certain parameters.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MIKULINA, MYERS, SULLIVAN, TOM – 10
EXCUSED: HIRANO, MEDER, PACOPAC - 3

B. RELATING TO BUDGET AND TAXES

1. PROPOSAL 2 - Property Assessments; Assessed property values to be capped.

The following individuals testified:

1. Mary Pat Waterhouse
2. Thomas Shell
3. Mike Abe
4. Catherine Kupukaa
5. Bill Woods
6. Marsha Joyner
7. Shannon Wood
8. Councilmember Gary Okino

Written testimony:

1. Colette Worm (Support)
2. Linda Vierra
3. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services (Oppose)
4. James Dannenberg (Support)
5. H. Foil Craver (Support)
6. Ted Vorfeld
7. Mililani Interactive (Support)
8. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)
9. Randy Perreira, Deputy Executive Director, HGEA/AFSCME, Local 152, AFL-CIO (Oppose)
10. Denise Wheatley (Support)
11. David Weiss (Support)
12. Heidi Nevala (Support)
13. Nicholas Youngleson (Support)
14. Stefan Fekete (Support)
15. Roger Moseley
16. Kenneth Clarkson
17. Marthy Lake

Mary Pat Waterhouse testified in opposition of the proposal. She stated they have concerns with placing this in the charter as it exists in an ordinance, and stated if changes need to be made it can be done through a bill.

Thomas Shell testified in favor. He went on to say the purpose of proposal is to provide a transparent method of raising revenue. If the City

needs more money, they should have to ask the taxpayers for it. With this amendment, property tax payers will know what they are going to pay next year, and the City will know how much money they will have next year.

Mike Abe, Democrats for Property Tax Fairness, testified in opposition. Skyrocketing prices and taxes are hurting many, housing instability is a problem, and relief is needed now. The Democrats wants a fair tax system. Property tax relief is a complex matter, and the City Council is looking at a dozen proposals. He believes the Council legislative process is where relief can be obtained. He believes the Charter Commission doesn't have the resources or time to address this issue, and is not expected to. The proper forum for this topic is the City Council.

Catherine Kupukaa testified in support. She is a Mililani resident of 22 years. In previous years, her property tax payment came out of her mortgage account. But this year, she saw her tax amount stated on her property assessment. She was shocked by the large increase and believes it is unreasonable for such an increase just while living there and without making any improvements on the house. The appeals process costs \$25 and takes too long.

Bill Woods testified in opposition. He would support capping taxes if all things were equal – if you could also cap natural disasters, inflation, cost of living, etc. He lives in upper Kalihi and believes that everyone there would like to see lower taxes, but they would also like to see sidewalks on Kalihi Street and potholes fixed. He believes there are always shortfalls; everyone wants many different things to improve quality of life. He believes the Council should be allowed to work out the many tax relief proposals. He believes this proposed amendment may be popular, but the City would lose in the future.

Marsha Joyner, from Democrats for a Fair Property Tax, testified in opposition. She believes that by the time these amendments reach the voters, the matter will be settled. This amendment would be a roadblock to taking a look and overhauling the entire system. The Mayor has looked for cuts in the districts of Councilmember Apo and Councilmember Marshall – but didn't ask the state, the tourists, etc.

Shannon Wood, Kailua resident, testified in opposition. She has seen the increase passed on to renters. She believes the tax should not be set in stone for 10 years; instead it should be taken up by the legislature. She believes we should look at what we as a society need to have – parks, streets, sewers, etc. It is our responsibility as taxpayers to pay for these particular services. There were many negative impacts of Proposition 13 in California.

Councilmember Gary Okino testified in opposition. It's not appropriate for the charter; they can deal with it much more effectively by ordinance. There are misconceptions in the public. This will not make it a fairer system. It will be unfair, by capping only for one group of people; as years go by, new buyers will bear a much heavier burden, like Proposition 13 effect. The purpose of the assessment is to come up with a fair way to assess everyone a share of government. Just because assessments rise astronomically, that doesn't mean that taxes have to rise astronomically – it's how the assessments are dealt with. Fair market assessments are a standard nationwide. The Council is trying to address the impact of the increase. A cap could result in an administrative nightmare and increase more costs. This amendment is unnecessary, unfair, and difficult to implement, and increase the cost of government.

2. **PROPOSAL 23** - Budget; Revise section re: "Preparation and Submission of the Program and Annual Budget for Executive Branch" to ensure adequate resources for CIP budget

The following individuals testified:

1. Mary Pat Waterhouse
2. Steven Arashiro

Written testimony:

1. Mary Pat Waterhouse (Oppose – Not necessary)
2. Steven Arashiro (Support)

Mary Pat Waterhouse, Department of Budget and Fiscal Services, testified in opposition. The information is valuable but it is already provided in the budget.

Steven Arashiro, retired City employee, testifying in support as an individual. He previously worked in the Budget and Parks & Recreation departments. His interest in this proposal stems from his participation as a volunteer in the Honolulu Zoo strategic plan. There were inadequate operating funds and personnel for the new CIP project, the Keiki Zoo. To accomplish the opening, they had to shift funds from other required areas – a short-term solution. For the long term, they had to ask for additional resources in the next operating budget. Another (non-City) example is the Kapolei library; the facility was completed, but funds were not appropriated for personnel and books, so it was unusable. This amendment would alleviate the problem by highlighting operating funds needed for CIP projects that will be completed in the next year. Operating funds are good for 1 year; CIP funds are good for 18 months. Major CIP projects take as long as 2-3 years to complete, and meanwhile the matching of operating funds

may be overlooked or priorities may change.

Chair Takaki asked for other City projects comparable to the Kapolei Library example. Arashiro gave the Keiki Zoo as an example. Chair Takaki asked how this charter change would have prevented that problem. Arashiro said it would highlight the projects to be completed; once construction funds are appropriated, projects become off the radar screen of the budgeting process. One Mayor might begin a big project, but much later, under a new Mayor with a different philosophy and operating funds may not follow.

Commissioner Lendio asked if Arashiro was advocating the reporting, or advocating that CIP projects should move forward without assurance of those future-operating funds. Arashiro replied that he is only advocating the reporting, to highlight the projects based on the Mayor's budget message. In response to a clarification question by Commissioner Lendio, Arashiro stated that it should be a reporting requirement by the Mayor and Administration in their highlights in the budget message. Commissioner Lendio asked if the City Council already asks about operating funds when looking at CIP projects. Arashiro replied that when a project is first proposed, a 6-year projection is done, but when years pass, these are forgotten. Commissioner Lendio then asked if this would be an annual reporting requirement. Arashiro replied in the affirmative, for CIP projects to be completed in the coming year. Commissioner Lendio asked if this would be cumulative. Arashiro replied in the affirmative.

Commissioner Sullivan asked Arashiro about his thoughts on Proposal 73. Arashiro said he did not know the details. Commissioner Sullivan asked if that was broadened to include major CIP projects, if that would meet his concern. Arashiro was unsure, but said that information in a new budget proposal as it is going in, that would tie in the operating budget with any project to be completed, would be helpful. Commissioner Sullivan recalled that Waterhouse stated that this information is already available, and asked Arashiro if he just wants it to be highlighted. Arashiro agreed that the information exists in the separate department budgets, but this would be part of the Mayor's budget message.

Chair Takaki asked how to highlight this information. Arashiro said it would be highlighted in the Mayor's budget proposal, a summary of the entire budget. The City budget is 500 pages, and the details are there but you have to find it.

Commissioner Chang asked if the Council could do this via ordinance and require this information of the Mayor. Arashiro stated that was a possibility, and the Council could ask for this information during the budget review. Because the CIP projects take so long, things fall through the cracks quite often. He stated that Willie Chang, a former Recreation division chief, has many examples of budget shortfalls related to 8 facilities to be opened.

3. **PROPOSAL 34** - Budget; Administration and enforcement of the executive capital budget ordinance -- lapse in 12 rather than 6 months.

The following individuals testified:

1. Shannon Wood
2. Hal Barnes, Assistant to the Mayor, Office of the Managing Director

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support with Amendments)
2. Jeff Coelho, Managing Director, City & County of Honolulu (Support)

Shannon Wood, Kailua Resident testified in support. She stated she has become very actively involved in city financial issues through the former administrations visioning process. She went on to state she learned how to read and utilize the budget system including the Capital Improvement budget. She also stated one of the frustrations to the Community was after the City Council passes the budget and Mayor signs, it takes one year to organize and another 6 months to get contracts out and it felt it wasn't adequate. Ms. Wood went on to say the community would then have lots of meetings in November and December because the government process and procedures take time. She felt this would make it more efficient. Ms. Wood urged the Commissioners present to support this proposal as this would allow residents to keep involved in the process.

Hal Barnes testified on behalf of the Managing Director, Jeff Coelho. He stated he was testifying on behalf of all departments that are impacted by the capital budget projects. He went on to state he surveyed 30 similar municipalities ranging from Salt Lake City to Tucson and none of them lapses capital budget funds and were surprised when informed them that the City & County of Honolulu does. The capital budget fund is a six-year plan and the council or the legislative body is approving the plan. Annual capital budget is year one of the six-year plans and recognizes the 1956-57 Charter stated to lapse capital budget after 12 months same as the operating budget fiscal year. The rationale was that would require administration to go back to the council to re-justify the project. The 1971-72 Charter Commission was under pressure from increasing permitting process, the Charter Commission granted an additional 6 months which reads 12 months plus 6 months rather than 18 months. This proposal is asking for additional 6 months primarily because 93% of all CIP projects the contracts go out in the 18th month. He stated they are trying to clear the project out in a variety of ways, electronic approval process, asking for project to start earlier in the fiscal year because they wouldn't want the 24 month become the 18 month as it is now. They would also like to ease the burden for the staff of the Procurement department who has worked overtime, nights, weekends and throughout the holidays. This would also avoid rushing the design and planning

work basis and would decrease the change orders with a more rational and more evenly allocated process over 24 months would save the city more money.

4. **PROPOSAL 52** - Budget; Require that the Mayor sign a budget bill before exercising line-item veto authority.

The following individuals testified:

1. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support)

Mary Pat Waterhouse testified in support. She stated it would help clarify the issue.

5. **PROPOSAL 73** - Department Budget and Fiscal Services; Require the director to prepare an annual report of long-term obligations of the City.

The following individuals testified:

1. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services

Written testimony:

1. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services (Oppose – Charter not appropriate to accomplish purpose)

Mary Pat Waterhouse testified in opposition. She read her written testimony into the record. Chair Takaki asked Ms. Waterhouse stating he submitted the proposal which stemmed from corporate bankruptcy and financial distress issues that revolve around pension and long term obligation issues, is there somewhere in the budget where it identifies an obligation of the city and all of the taxpayers in terms of long term pension obligations and health care for the employees and retirees? Ms. Waterhouse responded health care reporting will be required starting 2008. The pension debt services are already included in the financial statements and have been audited. This is required by the generally accepted accounting principles. Chair Takaki then asked for clarification that it is covering all the employee pensions. Ms. Waterhouse responded in the affirmative.

6. **PROPOSAL 82** - Budget; Change the fiscal year of the city from the period of July 1 to June 30 to the period of October 1 to September 30.

The following individuals testified:

1. Shannon Wood
2. Tom Heinrich
3. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services

Written testimony:

1. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services (
2. Tom Heinrich (Support)

Shannon Wood testified in opposition. She stated she believes the proposal thought was to align the City's fiscal year with the Federal fiscal year. But she feels it's more important to align it with the State's fiscal year and she sees no reason or justification for change. Ms. Wood went on to state that it would create chaos at the City Council level, currently the budget is signed two weeks before the next fiscal year and if it were to change it would be done in the middle of an election season on even numbered years.

Tom Heinrich testified in support. He highlighted some points he made in his written testimony. Mr. Heinrich went on to say that one of the reasons for the proposal for changing the stating date of the fiscal year was some of the difficulties of contracts that are left in the CIP process. He went on to say what the implementation of the rest of budget process is, as it affects Section 9-101, sentence one, will affect Article 9 of the Revised Charter of the City and County of Honolulu (1973) (2000 edition). One of the difficulties with the State's budget process every year is the final budget is not completed until July 1, so the City Council has to do guesswork in order to deal with what revenue sharing percentage of the transient accommodations tax and grant-in-aid is going to be shared with the county, etc. He went on to talk about the Procurement staff working overtime and during the holidays to meet the December 31 deadline. Mr. Heinrich stated whatever is done to implement when the fiscal year starts and what the budget process is that affects that budget year, however the wording is done in Section 9-101, there are maybe ways to smooth the process. Commissioner Lendio thanked Mr. Heinrich for his well thought out analysis, however she stated HRS 46-41 would probably preempt the change, which requires a county to maintain fiscal records on a calendar year starting July 1. Commissioner Lendio went on to say if the Commissioners were to move the proposal forward that it would be preempted by state law. Mr. Heinrich responded they would be an opportunity in a couple of weeks to put in a different bill. Commissioner Lendio agreed and stated if the state law was changed they would have more flexibility to make changes to the charter but it would be preempted by state law and stated he may want to take a look at that. Mr. Heinrich thanked Commissioner Lendio for the reference and will follow up with a

draft bill for the 2006 Legislation.

Commissioner Mikulina asked Mr. Heinrich if he knew if any other counties have addressed this or raised this issue legislatively also? Mr. Heinrich responded he did not know.

Mary Pat Waterhouse testified in opposition. She stated it would be contrary to the Hawaii Revised Statutes (HRS) and would not be able to be implemented. Commissioner Myers asked Ms. Waterhouse if it wasn't contrary to the HRS, what would your feeling be on this? Ms. Waterhouse responded they have discussed the issue and referenced other issues such as federal and state grants. She went on to say most of the grants are from the State government that is the advantage of having it corresponding to the state fiscal year. Commissioner Myers then asked Ms. Waterhouse that the guesswork that the city has to do now, not knowing what state budgets have been approved is not a large hindrance to the budgeting process and changing will not help that much? Ms. Waterhouse responded in the affirmative. Commissioner Tom asked for clarification by Ms. Waterhouse. Is it charter or ordinance, what is the day the Council needs to pass the city's budget? How many days before the end of the fiscal year? Ms. Waterhouse responded June 15. Commissioner Tom then asked when does the State Legislature usually adjourn? Ms. Waterhouse responded towards the end of May. Commissioner Tom then stated that there is about a two-week period to go over what the State Legislature has done to incorporate into the City Council budget if there are any major changes. Ms. Waterhouse responded in the affirmative.

ACTION:

B. RELATING TO BUDGET AND TAXES

1. **PROPOSAL 2** - Property Assessments; Assessed property values to be capped.

ACTION – Proposal 2 to move on for further consideration – motion failed.

Moved by Commissioner Myers, seconded by Commissioner Lendio. Discussion followed.

Commissioner Lendio stated she would be voting against Proposal 2 from moving forward as she believes it's a Legislative function and feel it's inappropriate for the Charter Commission to address the issue.

Commissioner Mikulina stated he will also be voting against this proposal as it would tie the hands of the Council if they need to make changes if the future if they need to.

Commissioner Grau stated he would also be voting against this proposal for the reason stated and because he doesn't feel it's a fairness issue in taxation.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MIKULINA, MYERS, SULLIVAN, TOM – 10
EXCUSED: HIRANO, MEDER, PACOPAC - 3

2. **PROPOSAL 23** - Budget; Revise section re: "Preparation and Submission of the Program and Annual Budget for Executive Branch" to ensure adequate resources for CIP budget

ACTION – Proposal 23 to move on for further consideration – motion failed. Moved by Commissioner Mikulina, seconded by Commissioner Lendio. Discussion followed.

Commissioner Lendio stated she will be voting against the proposal as she feels it's a legislative task to monitor CIP budget, she stated she understands Mr. Arashiro's concerns and experience in the department and his frustration with how the system works. She stated she believes it's the City Council's prerogative to determine if the Administration is doing sufficient work with regards in reporting the CIP projects and the existing operating and expenses.

Commissioner Myers stated he will also be voting against the proposal and sees it as a structure and reporting problem and not a City Charter item.

Commissioner Mikulina stated he doesn't know how to vote and appreciates Mr. Arashiro sharing experience with the Commissioners. He stated he like to support to move it forward but also feels it doesn't warrant a charter amendment.

AYES: MIKULINA - 1
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MYERS, SULLIVAN, TOM – 9
EXCUSED: HIRANO, MEDER, PACOPAC – 3

3. **PROPOSAL 34** - Budget; Administration and enforcement of the executive capital budget ordinance -- lapse in 12 rather than 6 months.

ACTION – Proposal 34 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Chang. Discussion followed.

Chair Takaki asked Mary Pat Waterhouse, Director of the Department of Budget and Fiscal Services is there a point when it is not reasonable to have the budget lapse from 12 months to 18 months, currently they are talking about 24 months, is there a point when they would say it's excessive and should lapse within a certain period of time? Would the time frame be 24 months? Mary Pat Waterhouse responded 24 months would be adequate at this point and stated the State has either 2 or 3 years and went on to state as Hal Barnes has testified earlier, there's a lot of jurisdictions that does not lapse at all.

Commissioner Sullivan asked Ms. Waterhouse if the Administration has a position on Council Chair Dela Cruz' proposed amendments? Ms. Waterhouse responded she has not seen the testimony. Commissioner Sullivan stated Council Chair Dela Cruz' testimony suggest the language to be amended to allow Council to approve to extend to 24 months at the 18 month period. Hal Barnes responded on behalf of the administration and went on to state that the Council Chair's proposed amendments stemmed from a project in Council Chair Dela Cruz district that inadvertently went unsigned and lapsed in December 2004 and have been subsequently put in the 2006 budget. He went on to state there was some merit in the amendment and would ensure that Council would view as what the 1956 Charter Commission said it would make them re-justify it. Mr. Barnes went on to state the Council Chair's intent was mainly for projects the Council introduced that they didn't want to see lapsed whether deliberately or inadvertently.

AYES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MIKULINA, MYERS, SULLIVAN, TOM – 10
NOES: NONE - 0
EXCUSED: HIRANO, MEDER, PACOPAC - 3

4. PROPOSAL 52 - Budget; Require that the Mayor sign a budget bill before exercising line-item veto authority.

ACTION – Proposal 52 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Mikulina. Discussion followed.

Chair Takaki asked Mary Pat Waterhouse, Director of Department of Budget and Fiscal Services currently the Mayor does not need to sign exercising his line-item legal authority and this proposed amendment would require his signature, is that

how you understand it? Ms. Waterhouse responded the Mayor can exercise his line-item legal authority but asked to defer to Hal Barnes of the Mayor's Office.

Hal Barnes responded there was an issue two years ago where the Mayor returned the budget bill unsigned but had several line items and both OCS and Corporation Counsel had different opinions at the time. If this were a charter amendment it would bring clarity to the situation.

Commissioner Tom asked Mary Pat Waterhouse for clarification. Commissioner Tom stated he understands the clarity issue but also understands Mayor has three options on a bill; he can veto outright, or sign it saying he supports it, or return it unsigned which becomes law. Commissioner Tom went on to say if the proposal is passed, they would be taking away one of those options on the capital budget, he would no longer be able to return it unsigned if he disagreed with other elements that may not be reasons to veto or he may not support the bill in total, we are not allowing him to return the bill unsigned to become law. The Mayor would either have to veto the whole bill or sign it saying he supports the whole bill. Ms. Waterhouse responded in the affirmative. Commissioner Tom then clarified the proposal would take away one of the Mayor's options of how he treats a bill for example budget. Deputy Corporation Counsel Diane Kawauchi responded Commissioner Tom is correct with respect to the three options available to the Mayor but the proposal deals with the instance where the Mayor is line item vetoing a bill that deals with appropriation, a very specific instance. The Charter's uncertainty Hal Barnes testified to earlier be whether or not when the Mayor exercises his authority to line item veto an appropriation bill whether he needs to sign that bill together with the line item veto. Deputy Corporation Counsel Kawauchi went on to explain on one side there is a position he need not sign when he line items vetoes, on the other side there's a position that says when he line item vetoes he must also execute the bill. The purpose of the proposal is to clarify in the Charter that when the Mayor exercises his authority to line item veto he must also sign the bill. Commissioner Tom responded with an option would be when he exercises his line item veto that he not be required to sign the bill, the Charter could say that also and bring more clarity? Deputy Corporation Counsel Kawauchi responded in the affirmative. Commissioner Lendio asked Deputy Corporation Counsel Kawauchi if there were an existing dispute between the Administration and City Council regards to line item veto issue? Deputy Corporation Counsel Kawauchi responded the dispute has resolved itself by passage of time as the veto might have happened in 2004. Commissioner Grau asked for clarification on Mayor's options; either approve the whole budget, line item veto certain items or veto the whole bill. Is there another option the Mayor needs? Deputy Corporation Counsel Kawauchi responded the line item veto is limited to appropriation bills, budget matters only. She went on to say the Charter giving the Mayor the authority to veto portions of an appropriation bill is unique to other bills that may come before him from the City Council. Commissioner Coffee asked Deputy Corporation Counsel Kawauchi if

the Mayor was likely trying to send a message by line item vetoing without signing the bill before he sends it back? Deputy Corporation Counsel Kawauchi responded the Charter already provides that when the Mayor exercises the line item veto authority the he would include a statement of the measure he is line item vetoing and the reasons therefore. So the charter already requires that of the Mayor.

Commissioner Mikulina stated the comments made by Commissioner Coffee regarding the remainder of the budget maybe the Mayor doesn't love it but doesn't hate it enough to veto the bill. Frequently there are bills that pass without signature because there's no objections or not enough to merit to veto. Deputy Corporation Counsel Kawauchi responded as Commissioner Tom indicated earlier the Charter can and specifically say, and the Mayor need not sign the bill that he is line item vetoing. The proposal is simply to clarify the dispute that has rose in a prior bill. Commissioner Mikulina asked Commissioner Tom if he recommends an amendment to the proposal? Commissioner Tom responded he would be voting in opposition as he feels the proposal is not needed as articulated there are times when a bill becomes a law when the Mayor doesn't sign it versus not vetoing it because it doesn't merit a veto but doesn't support it in it's entirety.

Commissioner Lendio asked Mary Pat Waterhouse for clarification on her indication that Mayor would agree to the proposal. Ms. Waterhouse responded in the affirmative the proposal would clarify.

AYES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MYERS, SULLIVAN – 8
NOES: MIKULINA, TOM - 2
EXCUSED: HIRANO, MEDER, PACOPAC - 3

5. PROPOSAL 73 - Department Budget and Fiscal Services; Require the director to prepare an annual report of long-term obligations of the City.

ACTION – Proposal 73 to move on for further consideration – motion failed. Moved by Commissioner Mikulina, seconded by Commissioner Lendio. Discussion followed.

Chair Takaki raised his concerns as taxpayers making sure the City government was paying attention to long-term obligations of the city in terms of health care expenditures and pension obligations. He was unaware the long term pension obligations could be found in the budget and the health care obligations will become part of the process.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MIKULINA, MYERS, SULLIVAN, TOM – 10
EXCUSED: HIRANO, MEDER, PACOPAC - 3

6. **PROPOSAL 82** - Budget; Change the fiscal year of the city from the period of July 1 to June 30 to the period of October 1 to September 30.

ACTION – Proposal 82 to move on for further consideration – motion failed.

Moved by Commissioner Myers, seconded by Commissioner Lendio. Discussion followed.

Commissioner Lendio stated she would be voting against the proposal because it violates state law.

Commissioner Mikulina appreciates Mr. Heinrich's concerns but there's a big hurdle to address, therefore he would be voting against the proposal.

AYES: NONE - 0
NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MIKULINA, MYERS, SULLIVAN, TOM – 10
EXCUSED: HIRANO, MEDER, PACOPAC - 3

Chair Takaki asked to take a 25-minute break. Commissioner Lendio moved, seconded by Commissioner Mikulina.

BREAK 5:50p.m.

****COMMISSIONERS CHANG AND KAWASHIMA LEFT THE MEETING****

****COMMISSIONER MEDER RETURNED TO THE MEETING****

RECONVENE 6:37p.m.

C. RELATING TO NEW AGENCIES/PROGRAMS

1. **PROPOSAL 4** – Department of Community Services; Establish an Advisory Commission on Community Services and Housing.

The following individuals testified:

1. Deborah Morikawa, Director, Department of Community Services
2. Jory Watland, President, Kokua Legal Services, Inc

Written testimony:

1. Deborah Morikawa, Director, Department of Community Services (Oppose)
2. Jory Watland, President, Kokua Legal Services, Inc. (Support)
3. George Turner (Support)
4. Waynette Twiggs (Support)

Debbie Kim Morikawa testified in opposition. Ms. Morikawa highlighted points in her written testimony.

Jory Watland testified in support. Mr. Watland stated the Department of Community Services is the department he's referencing in his written testimony in need of a Commission. He urges the Charter Commission in reestablishing a Commission for the department as a mechanism for the community to oversee major programs and funds. The department has an enormous budget of federal monies and feels it's necessary for the public through a Commission to be able to evaluate how money is spent, the process and generate the needed services the money were allocated for. Commissioner Mikulina asked Mr. Watland what is the procedure if he wanted his comments to be heard by the Department of Community Services? Mr. Watland responded there is really no avenue for the public to get involved at the department level right now. He has spoken to staff people, he can approach the City Council who are in the same situation. Mr. Watland stated there's a concept floating around of disposing the public housing the city owns. He went on to say its important at this time and the public should have an avenue to be able to express their concerns. Also there are funds that were designated for specific purposes and because they are CDBG funds and more a general support fund for the city it is used for other purposes than the original intent. Mr. Watland went on to say if there was a Commission he could bring his concerns to their attention as he is with the Charter Commission.

Commissioner Lendio asked Mr. Watland if he has spoken to the City Auditor regarding his concerns? Mr. Watland responded he talked to Finance more than the Auditor and has also spoken to the Council. He advised the Commission the Council took action a year and a half ago to study the inventory of the city property and stopped things that were moving forward. He felt it didn't take into account community meetings that were related to sell of low-income housing projects where residents were being forced to leave within 12 months. Commissioner Lendio then stated her concern of establishing a Housing Commission without support of the Administration and the City Council which will oversee what the department is doing, there will not be a budgetary support to function and would have created another bureaucratic entity with no power

because there is no budgetary support to proceed with the concept and good intentions. Mr. Watland responded he doesn't know if the Administration or the City Council opposes the proposal. He stated since the Housing Commission was extinguished, it hasn't been brought up for several years. The Housing Commission served as a valuable function for many years at the City level and he sees a need for it now than the past because of the allocations of the funds of the federal grants and how the city spends the federal money. Mr. Watland went on to say the voters would have an opportunity to express their concerns if they think the City Council and the Administration are not being responsible with the funds. He went on to say the Council spoke rather dramatically a year and a half ago when they created a study group to stop the process, which the Administration initiated.

Chair Takaki asked Mr. Watland why the Housing Commission was stopped? Mr. Watland replied he did not know. Commissioner Tom stated according to Ms. Debbie Morikawa's testimony, there is an Affordable Housing Advisory Committee, how would your Commission function differently? Mr. Watland responded it has to be more than an Advisory Committee and he doesn't feel the advisory committee is necessarily accessible for the public to speak on the issues before the department. He stated the Advisory Committee is selected as individuals not to be representing a public interest but to their own background. Chair Takaki stated the proposed amendment asks for an advisory commission not a decision-making authority. Mr. Watland responded the proposal is a department commission. Commissioner Coffee asked Mr. Watland if he has tried to make an input through the Affordable Advisory Commission? Mr. Watland responded no.

Chair Takaki asked Ms. Debbie Morikawa if she has any comments regarding Mr. Watland's remarks regarding the ability of allowing the public to have input in the department's programs and dealings. Ms. Morikawa responded there are a number of mechanisms for public input. With respect to the Community Development Block Grant Funds (CDBG funds that were referenced) there's a mandatory 30-day public commentary period required by HUD where they have to publish the recommended proposals they would like to fund. She went on to say the public has the opportunity to give input and many of the requirements to fund projects are mandated by federal rules. Ms. Morikawa stated there is not a lot of flexibility as subject to City Council's approval that may override the department's recommendations. Ms. Morikawa clarified the Housing Commission was dismantled when the Housing Department was abolished during the 1998 reorganization and the Mayor's position at this point, housing is not a core function of the city and therefore they will facilitate the development of housing but not take the lead. Commissioner Coffee asked Ms. Morikawa what is the role of the Affordable Housing Advisory Committee to the Department of Community Services. Ms. Morikawa responded the role is to develop recommended policies for the Mayor in priorities so the Mayor can formulate his

own position where the city should be on affordable housing.

2. **PROPOSAL 46** – Genetically Modified Organisms; Protect the county's agriculture, environment, economy and private property from genetically modified organisms.

The following individuals testified:

1. Hal Barnes
2. Richard McCormack, Seed Production Manager for Waialua, Pioneer Hi-Bred International, Inc
3. Michael Rupert, Pioneer Hi-Breed International, Inc.
4. Dr. Stephen Ferreira, Associate Specialist in Plant Pathology, College of Tropical Agriculture of Human Resources, University of Hawaii
5. Dean Okimoto, President, Hawaii Farm Bureau Federation
6. Anna Wieczorek, on behalf of Dr. Andrew Hashimoto, Dean of the University of Hawaii College of Tropical Agriculture and Human Resources
7. Dr. Cindy Goldstein, Business and Community Outreach Manager, Pioneer Hi-Bred International, Inc
8. Richard Clem
9. Kenneth Kamiya, President, Kamiya Farms, Inc
10. Stephanie Whalen, President and Director, Hawaii Agriculture Research Center
11. Sarah Styan, President-Elect, Hawaii Crop Improvement Association

Written testimony:

1. Sally Irwin, Ph.D., Assistant Professor, Maui Community College (Oppose)
2. Jeff Coelho, Managing Director, City & County of Honolulu (Oppose)
3. Stephanie Whalen, President and Director, Hawaii Agriculture Research Center (Oppose)
4. Dr. Stephen Ferreira, Associate Specialist in Plant Pathology, College of Tropical Agriculture of Human Resources, University of Hawaii (Oppose)
5. Scott Chun (Opposed)
6. Dr. Robert Bidigare, Center for Marine Microbioecology and Diversity, University of Hawaii (Opposed)
7. Grant Hamachi, President of East County Farm Bureau, Oahu County Farm Bureau (Oppose)
8. Dean Okimoto, President, Hawaii Farm Bureau Federation (Oppose)
9. Clyde Fukuyama, Matsuda Fukuyama Farms, Inc. (Oppose)
10. Richard McCormack, Seed Production Manager for Waialua, Pioneer Hi-Bred International, Inc. (Oppose)

11. Dr. Cindy Goldstein, Business and Community Outreach Manager, Pioneer Hi-Bred International, Inc. (Oppose)
12. Richard Manshardt, Professor and Plant Genetics, Department of Tropical Plant & Soil Sciences, University of Hawaii (Oppose)
13. Michael Austin (Oppose)
14. Andrew Hashimoto, Dean, College of Tropical Agriculture and Human Resources, University of Hawaii (Oppose)
15. Roger Johnson, Station Manager of Hawaiian Research (Oppose)
16. Don Gerbig, Retired Sugar Plantation Management (Oppose)
17. Lisa Gibson, President, Hawaii Life Sciences Council (Oppose)
18. Sarah Styran, President-Elect, Hawaii Crop Improvement Association (Oppose)
19. Loren Mochida, General Manager, Tropical Hawaiian Products (Oppose)
20. Rick Klemm, Executive Director, HARTS – Hawaiian Alliance for Responsible Technology & Sciences (Oppose)
21. Kenneth Kamiya, President, Kamiya Farms, Inc. (Oppose)
22. James Gaines, Interim Vice President for Research, University of Hawaii (Oppose)
23. Sandra Lee Kunimoto, Chairperson, Board of Agriculture, Department of Agriculture, State of Hawaii (Opposed)

Hal Barnes from the Administration testified in opposition as there is no enforcement mechanism to deal with Agricultural issue and feels it's a state issue or Department of Agriculture issue.

Richard McCormack testified on behalf of Pioneer Hi-Bred International, Inc. in opposition. He highlighted his written testimony.

Michael Rupert on behalf of Pioneer Hi-Bred International, Inc. did not have anything further to add to Mr. McCormack's testimony.

Dr. Stephen Ferreira, Associate Specialist in Plant Pathology testified in opposition. He highlighted his written testimony.

Dean Okimoto on behalf of Hawaii Farm Bureau Federation in opposition. He highlighted his written testimony. Mr. Okimoto advised the Commission the banana industry would be lost within the next three years due to bunchy top virus. The University of Hawaii has been working on solving the problem for 10 years with GMO's but has been unsuccessful. Mr. Okimoto stated if the proposal is implemented this industry would be lost and is a major industry for agriculture. They just passed an important ag land bill that is important for now and the future and wants to keep as much land in production. Mr. Okimoto stated they need

every type of agriculture possible to sustain the lands available. He went on to say they have been mandated by a resolution by the state to work on co-existence between the different methods of growing in agriculture. They have had meetings between biotech, conventional and organic farmers. If the proposal is passed it would subvert what the state has been put in place.

Anna Wieczorek testified on behalf of Dr. Andrew Hashimoto Dean of the University of Hawaii College of Tropical Agriculture and Human Resources in opposition. She highlighted Dr. Hashimoto's written testimony.

Dr. Cindy Goldstein testified on behalf of Pioneer Hi-Bred International, Inc. in opposition. Dr. Goldstein highlighted her written testimony. Commissioner Mikulina stated his concerns on the issue and stated he disagrees with some items she testified on.

Commissioner Mikulina asked Dr. Goldstein if she was familiar with the study by the Inspector General criticizing the USDA issued in December 2005. Dr. Goldstein responded in the affirmative and stated the study was from the OIG report, which the survey was conducted three years ago and the results were just recently released. She went on to ask Commissioner Mikulina to look at the OIG report recommends it state the USDA has created biotech regulatory services. If he looked at what OIG faults the USDA for, and look at the mandate for the biotech regulatory services that are part of the USDA he would see that many of the recommendations were directly addressed by forming the biotech regulatory service and the mandate is to carry out the things described in the report. Dr. Goldstein reiterated the data was collected three years prior to issue the report and would not be contemporary to the current regulatory scenario.

Commissioner Mikulina stated the report stated the regulatory branch of the USDA "lacks basic information about the field test sites it approves and is responsible for monitoring including where and how the crops are being grown and what becomes of them at the end of the field test. Dr. Goldstein stated there is a website available to the public listing all of the biotech field crop tests that have been approved by USDA and can be searched in different ways. USDA in the last couple of years has changed the process transparency from the public, which they were criticized in the past because they did not allow public comments on regulations and actions of the agency. The USDA has done quite a lot to improve transparency especially asking for more input from the public as they look at changing regulations which can be found in the federal register. Commissioner Mikulina asked for clarification on Dr. Goldstein's comments regarding the website would allow the public to see the locations of the field sites. Dr. Goldstein responded in the affirmative and stated it was run from the Virginia Polytech and offered to e-mail the website address to Commissioner Mikulina. Commissioner Mikulina then asked if Oahu would be able to be looked up? Dr. Goldstein responded in the affirmative and went on to say they could be found through the USDA Biotech Regulatory Service website and search for field test

permits, it will direct to that website that a public institution is keeping. Commissioner Mikulina stated that was a concern of where or what crops were being grown. Dr. Goldstein stated she has heard that comment and stated if the public wanted to find more information about the plants are available. Commissioner Mikulina asked Dr. Goldstein if she was familiar Mendocino County's band similar to the proposal and also Switzerland recently banned all GMOs in a referendum in November of last year. Dr. Goldstein responded she is not aware of that referendum but is aware of valid measures in California, most recently in Sonoma County which did not pass due to the potential negative impact on the agricultural industry in that County.

Richard Clem stated he stands by his testimony.

Kenneth Kamiya testified on behalf Kamiya Farm Inc. in opposition. Mr. Kamiya stated he has been growing papayas for over 35 years on Oahu and also has been growing genetically modified variety rainbow papaya for the past 7 years to resist the papaya ring spot virus. The proposal would be detrimental to his business and has been thoroughly tested by many government agencies and accepted in many markets including the U.S. mainland and Canada. Mr. Kamiya went on to without the technology to create new improved or disease resistance varieties; agriculture in Hawaii will be in jeopardy. Commissioner Mikulina asked Mr. Kamiya if he markets to Japan. Mr. Kamiya responded not yet Japan is just about ready to approve possibly in 2007.

Stephanie Whalen of the Hawaii Agriculture Research Center testified in opposition. Ms. Whalen stated she did not want to repeat what the previous speakers have said, but have provided written testimony and answered a few questions presented to previous speakers. She addressed Commissioner Mikulina question presented earlier to Dr. Goldstein regarding location. Ms. Whalen stated you couldn't get the exact location of plots. She went on to state her company was involved in doing a pharmaceutical product in sugarcane because though energy will play a significant part in their product in the long run they will need an alternative product to survive because energy is at the bottom. In the long run if they are not producing another product and obviously can't continue just making raw sugar because it has already shown that is not high enough value to keep going either. Ms. Whalen stated the engineering has been involved for 30 years, knowing that is the new technology coming down and have to be in the forefront of new technology otherwise they would no longer exist. She went on to say her company has been around for 100 years in doing research and market it. They also have the best business plan and are at the forefront at research. Since biotechnology started, they have been following along but need a high value product. There has been vandalism by those who oppose the technology philosophically not for science reasons and have done things such as blow up labs and destroyed crops. It isn't that no one knows where it is and those who needs to know, the regulators are there and they are

inspected. Ms. Whalen stated their pharmaceutical was inspected every step of the way and their staff were out there on a regular basis when the inspectors from the mainland and locally came to look at it to make sure they were following what their permit said.

Sarah Styan, President-Elect of the Hawaii Crop Improvement Association (HCIA) testified in opposition. Ms. Styan read her written testimony into the record.

3. **PROPOSAL 57** – Transportation; Establish a new, temporary agency in the city to develop the new public transportation system to be funded by the tax surcharge.

The following individuals testified:

1. Alfred Tanaka, Acting Director, Department of Transportation Services

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support)

Alfred Tanaka, Acting Director for the Department of Transportation Services testified in opposition. Mr. Tanaka stated the proposal would duplicate the existing functions of the Department of Transportation Services as propagated by the current city Charter Section 6-1102a. He stated the department is concerned the effort would repeat the similar failure in 1992 when the City Council established the Honolulu Public Transit Authority (HPTA). The Federal Transit Administration expressed concerns with disaggregated functions and responsibilities between the Department of Transportation Services and HPTA. Mr. Tanaka went on to say HPTA was dissolved in 1996. The Transportation Commission was design to oversee the department functions and performances after termination of the HPTA. The membership of the Transportation Commission is identical to this proposed charter amendment.

4. **PROPOSAL 66** – Transportation; Create a transit authority or board to build a rail system.

The following individuals testified:

1. Alfred Tanaka, Acting Director, Department of Transportation Services
2. Stan Fichtman, Staff to Councilmember Charles Djou

Written testimony:

1. Charles Djou, Councilmember, Honolulu City Council (Oppose)
2. Kenneth Clarkson??

Alfred Tanaka, Acting Director for the Department of Transportation Services testified in opposition. Mr. Tanaka stated the proposal is premature to conclude the city has selected a rail system as a future major transit improvement. He went on to say the city is currently in the process of evaluating various transit alternatives and a federal funding feasibility analysis. Mr. Tanaka stated the city has until the end of 2006 before it selects the city's future transit system from several options that include non-rail systems. Mr. Tanaka stated the proposal assumes there is no existing body or agency has delegated responsible to plan, design, build operate or maintain a rail system. He went on to say this is an expressed authorization in the ROH Section 2-12.1f that delegates the responsibility to the Department of Transportation Services. Mr. Tanaka stated should the City Council select rail as its future transit system the charter amendment is not necessary for its implementation. Chair Takaki asked Mr. Tanaka regarding his earlier statement regarding the Transportation Commission constitution after the HPTA termination, if Mr. Tanaka Transportation Commission could be involved with the proposed duties under the two proposals? Mr. Tanaka responded the Transportation Commission oversees the functions, duties and performances of the Department of Transportation Services and in its capacity it does provide oversight of the development of the Rail System. Chair Takaki asked Mr. Tanaka to clarify the Transportation Commission is an advisory body and not a decision making body. Mr. Tanaka responded in the affirmative and added the Commission also evaluates the Director of Transportation Services' performance.

Stan Fichtman, Council Aide to Councilmember Charles Djou read Councilmember Djou's written testimony into the record.

5. **PROPOSAL 91** – Property Taxes and New Fund; Set aside one-half percent (1/2%) of real property tax revenues for land and natural resources protection and one-half percent (1/2%) of real property tax revenues for affordable housing.

The following individuals testified:

1. Josh Stanbro, Trust for Public Land
2. Darlene W. Hein, Vice Chair, Partners In Care
3. Dr. Jonathan Scheuer, OHA
4. Shannon Wood
5. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services
6. Clifton Takamura
7. Stephanie Whalen, Hawaii Agriculture Research Center
8. Larry McElheny
9. Dean Okimoto, President, Hawaii Farm Bureau Federation

Written testimony:

1. Betty Lou Larson, Housing Programs Directors, Catholic Charities Hawaii
2. Mark Fox, Nature Conservancy
3. Michael Ullman, Oahu Continuum Care
4. Alice Bratton, A Women's Voice International
5. Margo Schrire, HIS
6. Darryl Vincent, U.S. Vets
7. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services
Debbie Morikawa, Director, Department of Community Services
8. Shannon Wood, Interim President, Windward Ahupua`a Alliance
9. Clyde Namuo, Administrator, Office of Hawaiian Affairs
10. Denise Antolini
11. Larry McElheny
12. Josh Stanbro, Trust for Public Land
13. William Tam
14. Paul Berry
15. Rene Berthiaume, TransPacific Housing Development Corp.
16. Donovan Dela Cruz, Council Chair, Honolulu City Council
17. Stephanie Whalen, Hawaii Agriculture Research Center
18. Laura E. Thielen, Affordable Housing & Homeless Alliance
19. Terry Brooks, President, Housing Solutions Inc. (Support)
20. Jacqueline Parnell, President, League of Women Voters of Honolulu (Support)
21. Darlene W. Hein, Vice Chair, Partners In Care (Support)
22. Rev. Colleen Chun, Trinity UMC, FACE Housing Committee Chair (Support)
23. Stanlyn Placencia, Executive Director, Waianae Community Outreach (Support)

Josh Stanbro testified in favor of the proposal. Ms. Stanbro highlighted his written testimony. Commissioner Lendio asked Mr. Stanbro who would administer the funds as to who gets which parts once its created? Mr. Stanbro responded the way the proposal is written is take the full 1% and divide in half evenly for affordable housing programs and the other half for environment, farming and clean water programs. He went on to say Maui left it up to the Council to bring proposals before them and decide which would get funded. Kauai has formed a Commission to look at different proposals, ranked and suggested which would get funded. Mr. Stanbro went on to say they would not want to micromanage but leave it up to the Council and the Administration to decide which programs it would benefit. He stated there is an existing Land Conservation Fund but it has no money and also there are affordable housing programs that could use help from the city.

Commissioner Mikulina asked Mr. Stanbro for examples of locations to protect and where could the money go. Mr. Stanbro gave examples of Waimea Valley, Pupukea-Paumalu Farms in the back of Hawaii Kai where the farmers are struggling to stay on the land and bring economic value, etc. He went on to say there are a lot of properties on Oahu because of the break up of trust between big agriculture owners and we are in small window of opportunity to keep small farmers on the land and keep access to coastal areas. Commissioner Mikulina asked Mr. Stanbro if his organization was involved with the neighbor islands adopting this similar proposal? Mr. Stanbro responded in the affirmative. He went on to say they had provided research and analysis, answered questions and polling to help them understand what level of support they have amongst the voters. Commissioner Mikulina asked Mr. Stanbro if he would be available to do the same for the Oahu Charter Commission? Mr. Stanbro responded in the affirmative. Commissioner Sullivan asked Mr. Stanbro what was the percentage established on Maui and on Kauai? Mr. Stanbro responded Maui was 1% for a land fund and doesn't have an affordable housing component. Kauai was ½% just for land fund and also doesn't have an affordable housing component. He went on to say that's about the right ballpark figure what other counties have seen. Mr. Stanbro reiterated if the city was to set aside \$1M groups like his company, Senator Inouye's office and other organizations could leverage the amount to \$2M, \$3M, or even \$4M for each \$1M set aside on a local level otherwise it would go to other jurisdictions like Maui and Kauai who have already set aside funds.

Darlene Heine of Partners in Care testified in support. She highlighted her written testimony. She went on to say there is a growing homeless problem and everyday people are seeking housing and there is no housing available. Ms. Heine stated she finds it disturbing the city is stating they should not be in the housing business per se and understands the problems and doesn't expect the city should develop, maintain or manage the organization but should ensure housing is available for the residents. She went on to say the way to make sure is to have money, money says someone has to pay attention, figure out how its done and where it goes. Ms. Heine says she feels the charter is the appropriate place this amendment rather than an ordinance or the budget as it will not happen. Or if it happens one year, it will not happen the next year. She stated it is important the city get involved in the issues as more citizens which include low and middle income are not able to find housing on the island of Oahu.

Dr. Jonathan Scheuer testified on behalf of Office of Hawaiian Affairs (OHA). Dr. Scheuer highlighted written testimony submitted by Clyde Namuo, Administrator of OHA. He also stated OHA is working with the City and County of Honolulu in regards to Waimea as they are acquiring 25,000 acres of land by the Hawaii Island. Dr. Scheuer stated they do housing project but without a reliable source of funding it's very difficult to plan ahead in order to partner with the County. He went on to state some people including Corporation Counsel might oppose the

measure and say it should be done via ordinance rather than charter amendment and he feels it's great in theory but as an earlier testified and articulated it doesn't happen in practice. Dr. Scheuer went on to say affordable housing in open space protection intuitively say it's really important but road repairs and other things take precedence and affordable housing slips to the bottom of the list. He went on to say the problem becomes more acute and the cost are shifted and the result is more homeless, more people move out of state, open space is lost which generally overtime leads for instance tourist to less likely visit due to fewer beautiful landscapes to view. Other jurisdictions around the country have done similar actions and received overwhelming support ranging between 60%-80% in support.

Shannon Wood testified in support. Ms. Wood read her written testimony into the record.

Mary Pat Waterhouse testified in opposition. Ms. Waterhouse highlighted her written testimony. She stated in the State Ordinance there is a requirement the city appropriate 1% of new construction for arts in public places and feel this would be the appropriate place to put this proposed charter amendment and not in the charter. Commissioner Coffee clarified with Ms. Waterhouse statement involving construction that 1% of the tax are being deducted? Ms. Waterhouse responded in the affirmative. Commissioner Mikulina asked Ms. Waterhouse regarding concerns from earlier testifiers about the funds coming and going with the vagaries of who is in office and the predictability to purchase land or long term plan for affordable housing how would she respond to those concerns raised by the proponents. Ms. Waterhouse responded the persons holding the position should hold the accountability and if money were being moved around she would hold them accountable. She went on to state that an ordinance is a law.

Chair Takaki asked Ms. Waterhouse from the last year's budget, what percent of real property tax revenues were set aside for land and natural resources protection and affordable housing. He stated he wanted to know if ½% was more or less then currently spending? Ms. Waterhouse responded the State Department of Land and Natural Resources takes care of that and not the city. She went on to say for housing the Housing Department have been disbanded but they have allotted \$1M to purchase the Pupukea property. Commissioner Tom stated to Ms. Waterhouse the question asked by Chair Takaki is a hard question to answer as to what was spent. Commissioner Tom went on to say the proposed amendment is a much wider use of funds, for acquisition of land, outdoor recreation, agricultural lands, planning, design, erosion, maintenance etc. He suggested to help the Commission that Ms. Waterhouse has her staff research to see how much is actually being spent as it may be or less than 1% that is being proposed. Chair Takaki stated his concern is how much of real property tax revenue from the last time it was calculated for the year. Chair

Takaki went on to say it could be minimum or maximum, good or bad if the proposal was to move forward and the City is currently spending \$500,000 a year the ½% would only be \$200,000 a year and the City would be spending less and stated he would be interested in seeing what the proposal would do for the City in relation to protection and affordable housing if it should pass the electorate. Commissioner Mikulina clarified as he reads the proposal will augment the current laws in place and be above and beyond what the city has but could be mistaken. Chair Takaki clarified as he reads the proposal as they could decide to cut funds elsewhere relying solely on the proposal.

Clifton Takamura testified in support. Mr. Takamura stated he stands by written testimony submitted by Betty Lou Larson of Catholic Charities Hawaii. He went on to say the neighborhood board, which he is second vice chair, created a resolution asking for the neighborhood board in his area to support Proposal 91 and by majority vote and passed full membership.

Stephanie Whalen testified in support. She went on to state the value they see in the proposed ½% if purchasing, acquiring land or easements, the USDA and RCS has a federal program which the State gets allocated a couple of million dollars every year to purchase conservation easements to keep land in agriculture production in perpetuity but needs a partner and in the end the partner pays half of what they. Ms. Whalen went on to say there is a criteria to assess the land and value per acre for the easement but can't hold the easement and are looking for local government entity or NGL to hold the easement and to contribute the other portion. She stated that's how they see the value of the county looking at the ag land that is left as testified by others earlier.

Larry McElhenny testified in support. He went on to say he support decisions that would result in the greatest good for the greatest number of people and feel this proposal would do that. Mr. McElhenny went on to say it addresses two critical issues, public access to open space and affordable housing. In his opinion, solving the two critical issues will require participation from all levels of government.

Dean Okimoto testified in support. He stated they have been in partnership with Josh Stanbro and his organization in passing similar legislation with the state. Mr. Okimoto stated they are behind the proposal and have also passed Act 183 during last year's legislative session, which is a mandate to preserve important agriculture in the future. He went on to say farm labor is a big problem in Hawaii and to do affordable housing for farm labor works out well.

6. **PROPOSAL 92** – Department of Strategic Initiatives; Establish a new Department of Strategic Initiatives.

The following individuals testified:

1. Hal Barnes, Assistant to the Mayor, City & County of Honolulu

Written testimony:

1. Jeff Coelho, Managing Director, City & County of Honolulu (Oppose)

Hal Barnes testified in opposition. He went on to say the administration appreciates the thinking behind the proposal and hopes this is already done throughout the city departments. Mr. Barnes stated it's hard to establish new bureaucracy or new departments at a time where citizens are asking the city to cut its spending and taxes and feels this would be difficult to implement at the present time. He went on to say Mayor Hannemann has conveyed a review team of several different groups to present ideas and activities for him to consider that would be similar to the proposal.

7. **PROPOSAL 93** – Youth Commission; Establish a new Youth Commission.

The following individuals testified:

1. Deborah Kim Morikawa, Director, Department of Community Services

Written testimony:

1. Deborah Kim Morikawa, Director, Department of Community Services (Oppose)

Deborah Kim Morikawa testified in opposition. She went on to say there are a numerous amount of other programs and entities that already exist that are addressing concerns in proposal. Ms. Morikawa stated the proposal has a concern regarding youth not engaging enough in civic opportunities. She clarified there is a Youth Legislature as well as Private and Public Schools have programs that engage youth in community activities and civic responsibilities. She went on to say the Department of Community Services has 3 advisory boards, Juvenile Justice Advisory Board, Youth Build Youth Council, and the Workforce Investment Boards.

8. **PROPOSAL 96** – Environmental Bill of Rights; Add new article with an “environmental bill of rights: for current and future residents.

The following individuals testified:

1. Hal Barnes, Assistant to the Mayor, City & County of Honolulu
2. Dean Okimoto, President, Hawaii Farm Bureau Federation

Written testimony:

1. Jeff Coelho, Managing Director, City & County of Honolulu (Oppose)

Hal Barnes testified in opposition. He went on to say the administration appreciates the intent of proposal but stated as the proposal is written, it's difficult to determine impact regarding litigation or moving legislation through the process. Commissioner Mikulina asked Mr. Barnes in the Administration's written testimony submitted by former Managing Director Jeff Coelho, the Administration stated the proposal is overly broad, vague and could be subject to challenge. Commissioner Mikulina went on to say there are other portions of the current charter as well as State Constitution that are also very vague how does this differ? Mr. Barnes replied as he understands the proposal, every administrative or legislative act are subject to a test of how it meets Hawaiian cultural or environmental standards. He went on to state he thought the purpose of the Environmental Impact Statements (EIS) and Environmental Assessments and Shoreline Management Permits as mandated by the States and Federal Government would cover the purpose of the proposal and comply with those mandates. Commissioner Tom clarified the proposal is more than just Capital Improvement Projects. Commissioner Tom went on to state its any decision including an issuing of a permit and could be any project not only a City project.

Dean Okimoto testified the Farm Bureau was not opposed to the intent of the proposal but have concerns the proposal could have unintended negative conflict of interest on agriculture land. He went on to say he wants to impress upon the Commissioners regarding what agriculture delivers in the environment not be forgotten. Mr. Okimoto went to say promotion of agriculture is needed as it provides clean water which it filters water through aquifers to recharge water resources, open space and greenery, sustainability for growth of food safety and sustaining environment. He went on to say in proposing the charter amendment to include agriculture, which is part of the environment, and be cognizant and watch for unintended negative aspects. Commissioner Mikulina asked if Mr. Okimoto if he would propose the Commission amend the proposal to include agriculture? Mr. Okimoto responded he would agree with that amendment to include agriculture.

9. **PROPOSAL 97** – Commission on the Environment; Establish new Commission on the Environment.

The following individuals testified:

1. Shannon Wood, Interim President, Windward Ahupua`a Alliance
2. Hal Barnes, Assistant to the Mayor, City & County of Honolulu

Written testimony:

1. Jeff Coelho, Managing Director, City & County of Honolulu (Oppose)

Shannon Wood testified in support. She went on to state in the proposal would rid politics in decision-making and would include the involvement of the public. Ms. Wood went on to say the proposed Commission would make it less hostile and more rational environment for some of the decisions.

Hal Barnes testified in opposition. He highlighted the written testimony submitted by former Managing Director Jeff Coelho. Mr. Barnes stated the proposal is unclear of agencies the proposal would oversee and which departments and how it would be administered. He stated at a time when citizens are asking for a cut in city expenses, this would create an un-funded mandate because it would have to be staffed.

ACTION

C. RELATING TO NEW AGENCIES/PROGRAMS

1. **PROPOSAL 4** – Department of Community Services; Establish an Advisory Commission on Community Services and Housing.

ACTION – Proposal 4 to move on for further consideration – motion failed.
Moved by Commissioner Mikulina, seconded by Commissioner Tom. No discussion followed.

AYES: NONE - 0
NOES: TAKAKI, COFFEE, GRAU, LENDIO, MEDER, MIKULINA, MYERS,
SULLIVAN, TOM – 9
EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC - 4

2. **PROPOSAL 46** – Genetically Modified Organisms; Protect the county's agriculture, environment, economy and private property from genetically modified organisms.

ACTION – Proposal 46 to move on for further consideration – motion failed.
Moved by Commissioner Mikulina, seconded by Commissioner Lendio. Discussion followed.

Commissioner Myers commented they received testimony in opposition of the proposal and have not received any support for the proposal.

Commissioner Grau commented he agrees with all the testimony received in opposition and feels the proposal should not be moved forward.

Commissioner Mikulina stated he would not be voting to move the proposal forward. He went on to state the Inspector General Report of the USDA article posted in the December 31, 2005 Honolulu Advertiser analyzing the USDA. Commissioner Mikulina went on to say the proposal should not be done in the Charter. It could be done by city ordinance or through the State.

AYES: NONE - 0
NOES: TAKAKI, COFFEE, GRAU, LENDIO, MEDER, MIKULINA, MYERS,
SULLIVAN, TOM – 9
EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC - 4

3. **PROPOSAL 57** – Transportation; Establish a new, temporary agency in the city to develop the new public transportation system to be funded by the tax surcharge.

ACTION – Proposal 57 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Commissioner Coffee stated he has mixed emotions on the proposal. He went on to state because it's such a large public works project it seems to merit an oversight Commission. Commissioner Coffee stated the mass transit initiative could be better handled if there was a dedicated agency or commission to oversee and coordinate with the City and State Departments of Transportation because it's a huge undertaking. He also stated it could suffer in both ways, neither the City nor State Department of Transportation can devote full attention which it deserves because of the ongoing issues of traffic. On the other hand the agency that can devote their attention to it would do a better job then perhaps the ones in place.

Chair Takaki also had mixed emotions as he has been involved with the City Transportation Commission for many years and has seen other areas where large transit projects were instituted. These projects usually crossed multiple jurisdictions and required authorities to cross jurisdictional lines and this proposal relates to the City Charter and doesn't compel the State to have to participate, however it's another step in that direction. Commissioner Coffee commented this would be another bureaucracy.

Commissioner Lendio stated her concern that the proposal may be premature at this juncture as the City nor State has made a decision or consensus on mandating on how to proceed with the transportation issues. She went on to say she feels this proposal that would form a body to oversee the project at this point is premature and feels there could be many faults before the final decision of fixing the transportation issue are made.

Commissioner Myers stated he would vote to move proposal forward to hear public testimony and shares mixed emotions and concerns of the other Commissioners.

Commissioner Mikulina agreed with Commissioner Myers and in response to Commissioner Lendio, if not now it would be another 10 years for the next Charter Commission to create an agency and feels it should move forward to see how it proceeds with the City and State.

Commissioner Grau asked Chair Takaki if an agency already existed and stated there is some implication they are not meeting their responsibility. He went on to state if the agency existed to let them do their job and hold them accountable. Commissioner Grau stated the proposal seemed duplicative and his understanding of Commissions are usually set up to deal with inter-jurisdictional boundaries that need to be solved. He went on to state he doesn't see any jurisdictional disagreement on transportation programs that are being proposed. Commissioner Coffee stated he's unsure if there is a dedicated entity at this point. Chair Takaki responded the Director of the Department of Transportation testified his department is responsible and the organization OMPO is responsible for jurisdictional boundaries. Chair Takaki went on to state his mixed emotions because of the certain constraints of the City department and sometimes the authority would be more independent to take action move forward large projects and would be voting to move forward for further input.

AYES: TAKAKI, COFFEE, GRAU, MEDER, MIKULINA, MYERS,
SULLIVAN - 7

NOES: LENDIO, TOM - 2

EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC - 4

4. PROPOSAL 66 – Transportation; Create a transit authority or board to build a rail system.

ACTION – Proposal 66 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Chair Takaki stated it is similar to proposal 57 and feels to have two of the similar items to move forward is not necessary.

AYES: NONE - 0

NOES: TAKAKI, COFFEE, GRAU, LENDIO, MEDER, MIKULINA, MYERS,
SULLIVAN, TOM - 9

EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC – 4

5. **PROPOSAL 91** – Property Taxes and New Fund; Set aside one-half percent (1/2%) of real property tax revenues for land and natural resources protection and one-half percent (1/2%) of real property tax revenues for affordable housing.

ACTION – Proposal 91 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

Commissioner Myers commented although he feels affordable housing and land protection are major problems necessary for protection, he has a problem allocating dedicated funds particularly a certain amount in the City Charter which will become outdated if it is passed and implemented.

Commissioner Grau commented he feels the proposal address both issues of rising housing prices and Hawaii's economy is the environment. Two other counties, Kauai and Maui have implemented this proposal and it would be a chance for the citizens of the City and County of Honolulu to make a statement. Commissioner Grau went on to state testimony received earlier stated through a poll, 71% of those people supported this proposal and would like to get more information regarding this. He would like to keep this proposal alive for further consideration and give the citizens a chance to decide.

Commissioner Tom commented of all the proposals he heard tonight, this proposal was most visionary. He went on to say he would support the proposal to gather more information. Commissioner Mikulina agreed with the Commissioners' statements. He stated the most compelling information received through testimony was leverage of other sources of money using the proposed funds as seed money to get more money. Commissioner Mikulina gave examples of federal funds and the State Act in place that could be leveraged. He went on to state the predictable funding and removing responsibility from annual City Council budget process. Commissioner Mikulina went on to say information received from the farmers regarding these could be used to purchase conservation easements. He commented on the overwhelming support received from the public regarding the proposal. Commissioner Mikulina feels this proposal should let the citizens decide and during the interim to ask organizations to do polling and see if the public supports the issue.

Commissioner Sullivan agreed with the other comments received by the other Commissioners and strongly asked the Commission to move the proposal forward. She stated the proposal has been proposed at ordinance level many years and in many forms but has not been able to proceed. Commissioner Sullivan stated for a non-profit dedicated fund for affordable housing or natural resource conservation to have dedicated is completely different from the

operating budget and can't underestimate the difference. She stated she understands the opposition by the City Council and the Administration, but hopes the Commission will consider and keep in mind they are not elected officials and part of the difficulty with these types of measures is the constituency. The constituency of affordable housing doesn't vote, they are poor and/or homeless and the constituency of natural resource conservation is usually for the next generations or children. The constituencies that are affected are not typical for elected officials. She went on to say it's up to the Commission to let the voters get the opportunity to decide on the proposal.

Commissioner Coffee commented this proposal seem complementary with the state's legacy lands initiative in many ways and possible conflict of interest, but doesn't think it would be a conflict as it is consistent and has the same philosophy. Chair Takaki stated he is unsure of the conflict and asked Researcher Nikki Love to do research.

AYES: TAKAKI, COFFEE, GRAU, LENDIO, MEDER, MIKULINA, MYERS,
SULLIVAN, TOM - 9
NOES: NONE - 0
EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC – 4

6. **PROPOSAL 92** – Department of Strategic Initiatives; Establish a new Department of Strategic Initiatives.

ACTION – Proposal 92 to move on for further consideration – motion failed.
Moved by Commissioner Mikulina, seconded by Commissioner Lendio.
Discussion followed.

Commissioner Mikulina commented he would be voting in opposition and hopes the proposal is currently in existence within the City departments. Commissioner Myers commented on the proposal for clarification of proposed “need to dedicate strategic initiative new to Oahu, but not elsewhere” but Commissioner Myers asked about consideration of ideas new everywhere. Chair Takaki responded the submitter of the proposed amendment is not present to respond.

AYES: NONE - 0
NOES: TAKAKI, COFFEE, GRAU, LENDIO, MEDER, MIKULINA, MYERS,
SULLIVAN, TOM - 9
EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC – 4

7. **PROPOSAL 93** – Youth Commission; Establish a new Youth Commission.

ACTION – Proposal 93 to move on for further consideration – motion failed.

Moved by Commissioner Sullivan, seconded by Commissioner Lendio.
Discussion followed.

Commissioner Mikulina stated he would be voting to move the proposal forward to gather more information.

AYES: GRAU, MIKULINA, MYERS - 3
NOES: TAKAKI, COFFEE, LENDIO, MEDER, SULLIVAN, TOM - 6
EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC – 4

8. **PROPOSAL 96** – Environmental Bill of Rights; Add new article with an “environmental bill of rights” for current and future residents.

ACTION – Proposal 96 to move on for further consideration – motion passed. Moved by Commissioner Sullivan, seconded by Commissioner Lendio.
Discussion followed.

Commissioner Mikulina commented his purpose of the proposal was to lay out a clean and healthy environment, but his specifications may have hindered the proposal. He went on to say he would like to have something in the charter that laid out the philosophy similar to other rights that citizens have. Commissioner Mikulina stated if the proposal moves forward he would amend the proposal with a shortened version to be submitted for consideration.

Commissioner Grau commented he feels it would be good to make statement of general principles. He went on to say he would be supporting the proposal but would like to see a broader statement. Commissioner Coffee stated he's unsure of the intent of the proposal and asked Commissioner Mikulina his comments. Commissioner Mikulina stated it would be similar to other articles that exist in the Charter that are vague and general. He gave examples of the similar rights that exist.

Commissioner Meder asked for clarification of what proposals were passed at the December 13, 2005 meeting and if there was a similar proposal that was passed. He went on to state he did not want to duplicate a similar proposal if it was passed earlier. Commissioner Grau stated his concerns on the implementation of the proposal and possible frivolous litigation. He went on to say though he would like to see some statement of principle added to the charter, he heeds caution of litigation. Chair Takaki commented on Commissioner Meder comments regarding similar proposals passed on December 13, 2005 makes an important statement about the environment but did not specifically state a Bill of Rights as we as a Charter Commission are making. Commissioner Myers commented if the proposal was amended he would vote on the proposal on a supermajority level.

Commissioner Sullivan stated she would be supporting the proposal but would like to see the proposal amended and went on to state is unclear on where the proposal would be inserted if it was to pass the voting public. She suggested to include the proposal to the general plan under the Planning and Permitting Section, which is very general and would be clarified. Commissioner Tom suggested Commissioner Mikulina to consider Proposal 21 that establishes Urban Growth Boundaries and Agricultural protection zones.

Commissioner Lendio stated she would be voting in favor of the proposal to move forward. Though stated as the proposal is written it may have constitutional and litigation problems. Commissioner Lendio went on to say if he was to amend the proposal as a policy statement it would be a different scenario. Commissioner Myers asked for clarification if the proposal is passed tonight it would move forward as is to public hearing. Commissioner Lendio responded in the affirmative and stated Commissioner Mikulina could discuss how he would amend the proposal during the public hearing as the proposal. Commissioner Myers went on to state he did not want to put this proposal in this form at three public meetings.

Chair Takaki stated he would not voting to move the proposal forward. He went on to state he wants to focus on other environmental proposals that have passed the initial process. Commissioner Grau commented he is disinclined to vote for the proposal in the current form. He went on to say if passed on in current form it could become entangled with other proposals the Commission would like to go forward. Commissioner Grau went to say if there was a compelling reason, he could change his mind but will be voting not to move the proposal forward at this time. Commissioner Meder commented that looking at the proposals that have passed the December 13, 2005 meeting are much more specific. He went on to say this proposal although not perfectly drafted has a much principled approach then the others that may be done through ordinance. Commissioner Meder went on to say he would be supporting the proposal. Commissioner Mikulina commented as Commissioner Lendio stated he intends to tweak the proposal as it isn't the final language and is a policy statement. Commissioner Mikulina asked Commissioner Grau give him a chance to come back with different language and to let it go through the public hearing and make a decision after that process. He went on to say he feels it would be great to have a general statement in the charter that cannot be done through ordinance. Commissioner Coffee commented if you compare the generality of Proposal 96 than the philosophical to Proposal 97 provides contrast, which compels Commissioner Coffee to vote in favor of this proposal rather than Proposal 97.

AYES: COFFEE, GRAU, LENDIO, MEDER, MIKULINA, SULLIVAN, TOM
- 7
NOES: TAKAKI, MYERS - 2

EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC – 4

9. **PROPOSAL 97** – Commission on the Environment; Establish new Commission on the Environment.

ACTION – Proposal 97 to move on for further consideration – motion failed.

Moved by Commissioner Sullivan, seconded by Commissioner Lendio.
Discussion followed.

Commissioner Mikulina commented the purpose of the proposal is a model similar to San Francisco. He went on to say it would be attached to the Department of Environmental Services and would not require much staff at all. Commissioner Mikulina stated the proposal would provide guidance to all the departments, to make sure they are following the general plan, state plans and investigate and make recommendations relating to solid waste management, recycling, conservation, sewage and etc. He went on to say it would provide checks and balances to the current City government. Commissioner Meder commented the City of Portland created an agency within the cities that cross cuts all the other departments to coordinate on these terms and doesn't know that level of support would manifest here. He went on to say it's been successful in its initial stages and would like to see something like this but doesn't know how practical it is but will support the proposal.

Commissioner Lendio stated the proposal language is vague and ambiguous and also have constitutional issues as well as responsibility and duties duplication. She went on to say she has concerns regarding if the proposal would receive financial support from the Administration or the City Council. Commissioner Lendio stated she would not be supporting the proposal to move forward. Commissioner Meder stated it's the case with a lot of the proposals. He went on to say the process they Commission is taking is to gauge the citizen's response and then the elected officials would have to determine how the citizens would respond. Commissioner Meder went on to say if the Commission second-guesses the politics, they'll never move any of the proposals on to the next level. Commissioner Lendio responded she disagrees with Commissioner Meder. She stated they are at the stage of moving proposals forward to find the issues of importance to the citizens. Commissioner Lendio went on to state they need to consider how many proposals that will be placed on the ballot as the voters would be fatigue reading the proposals. Commissioner Grau commented he shares the same concerns as Commissioner Lendio and would also be voting against the proposal.

****COMMISSIONER SULLIVAN LEFT THE MEETING****

AYES: MEDER, MIKULINA - 2

NOES: TAKAKI, COFFEE, GRAU, LENDIO, MYERS, TOM - 6
EXCUSED: CHANG, HIRANO, KAWASHIMA, PACOPAC, SULLIVAN – 5

V. Committee Reports

- a. **Report of the Budget Committee – No Report.**
- b. **Report of the Submission and Information Committee – No Report.**
- c. **Report of the Personnel Committee – No Report.**
- d. **Report of the Rules Committee – No Report.**

VI. Officers Report

- A. Chair – Chair had no report.
- B. Vice Chair – Commissioner Mikulina had no report.
- C. Treasurer - Commissioner Myers had no report.
- D. Secretary – Commissioner Pacopac absent.

VII. Announcements

Executive Administrator Narikiyo discussed setting the fourth of four initial review meetings as there are conflicting Council Committee meetings. He went on to discuss the public outreach meetings tentatively set for March 14, 21 and 28 at Kapolei Hale, Kaiser High School and Kailua High School. There is no meeting scheduled for February as the second Tuesday is Valentine's Day. He went on to state inquiries from the public have been received requesting identities of submitters of some proposals. No formal written request has been received, but he understands there is one forthcoming and will be forwarding it to OIP and Corporation Counsel.

VIII. Next Meeting Schedule

The next meeting was set for Tuesday, January 24, 2006 at 2:00 p.m. in the Council Committee Room on the Second Floor of Honolulu Hale.

IX. Adjournment

Meeting was adjourned at 8:54p.m.